

THE  
**C A S E**  
 OF THE *Kentishbury Provind*  
*Convent*  
**Schedule Stated.**

Wherein an ACCOUNT is given  
 OF THE  
**R I S E** and **D E S I G N**  
 OF THAT  
**Instrument,**

And of the *Influence* it hath on the *Adjournments*  
 of the *Lower House* of **CONVOCATION**;  
 And all the *Authorities*, urg'd in behalf of the *Arch-*  
*bishop's Sole Power* to *Prorogue* the *Whole Convocation*,  
 are occasionally Examined.

By a MEMBER of the Lower House of  
**CONVOCATION.**

L O N D O N :

Printed for T. Bennet, at the Half Moon in St. Paul's Church  
 Yard. 1702.

THE  
CASE  
OF THE  
Schedule stated.



Whereto is given

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R 12 E and D E 2 I C N

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# PREFACE.

**S**ince this Book was finish'd, the late Synodus Anglicana came to my Hands. I have perus'd the Whole of it; but have fix'd my Eye chiefly on those Parts, which relate to the present Argument. I find nothing there that Obliges me to Withdraw, or even to Explain, or Justify any Position here advanc'd. It is the Old Story, which we had in the Archbishop's Right, &c. and in the Reflections on the Expedient, told over again: Some Circumstances which were found to be Weak, and False, are silently dropp'd: but the Rest stands as it did, without any Addition of Strength or Improvement. That Little which is New in it, makes against the Cause it is brought to support, and strengthens some of the Conjectures and Reasonings advanc'd in these Papers. Particularly, what he owns \* about the way of Signing the Schedule, now practis'd in York-Province, discovers the Vanity of that Hypothesis, upon which he had built before with so much Assurance; That the Signing of Schedules could be for no Other End but the Transmission of them to a Distant Body of Men: for He at the same time Owns, that the Clergy of that

\* Inter  
Addend.  
& Emendand.

Province are always present at the Archbishop's Continuations. He tells us † of a New Set of Schedules, lately retriev'd, which extend from 1666 to 1670; and where the Names of the Bishops, who were present at the Reading them, are enter'd. He could not better have confirm'd my Observation, that the Modern Schedules are really the Upper-House Acts: for both from their Form, and the Time at which they begin; just where the Bishop's Register leaves off; it appears, that they were design'd to Continue it, and supply the Room of it, and were in truth reduc'd into Acts for that purpose, by the Attestation of the Notary: which, therefore, hath no manner of Reference to the Transmission of the Schedule; the Idle Scheme, that he built upon so much, and maintain'd by such Frivolous Arguments. I have endeavour'd to get a Sight of these Rarities, and to that End have enquir'd at the Place, where one would expect to find them, the Archbishop's Registry: but the Answer of Him who keeps it, is, That he hath not a single Paper in his Custody, relating to Convocations. I hop'd, at least, to have found the Act-books lately printed, in that Office; because, if the Edition given us of them be Exact, the Originals can be no longer of any Use to the Editor. But they are still, it seems, at Lambeth: and tho' I had Ocasion to consult them, yet I chose rather to want Light, than to run the hazard of being stigmatiz'd, as a Warm-Member. I, particularly, would have search'd the Register of 1661, &c. for the Form, Domini Continuarunt,



run, which I thought was to be found towards the Latter End of it, and have built upon that Supposition Page the 29th of these Papers. But I do not meet with that Form, in the Printed Copy of those Acts; and therefore know not but that my Memory may in that point have fail'd me.

Did I think there was a Line, in what the Author of Synodus Anglicana has last written upon the Head of Adjournments, that weakens any thing layd down by me in the following Pages, I would not let it pass without an Examination: to which I confess my self tempted, in some Articles; not to remove the force of his Observations, but to shew the slightness of them. His Odd way of accounting for the Constant Practice of the Schedule in the Lateran Council, † † p. 229. by the Pope's Employing Cardinal Antonius de Monte, ( a Name that sounds very well ) to draw up the Proceedings of it; His Grave Demand †, That I † p. 228. should produce some Canon of that Council, prescribing the Use of the Schedule in all Provincial Synods; His Wise Observation \*, that no Schedules appear to \* p. 229. have been us'd in the Trent Council ( whose Acts were never printed ); and several other such Notable Remarks, would afford some Entertainment, perhaps, but little or no Instruction to the Reader; whom therefore, in the Entrance of a Work, in it self sufficiently Tedious, I will not detain by any Useless Reflections.

Could I hope, that this Writer would listen to any Advice that comes from my Pen, I would counsel him, in his future management of this Debate, not to venture beyond the Province allotted him, the Archbi-  
shop's



shop's Registers: in his Transcripts from These he may appear to advantage, having taken a Prudent Care; not to be interrupted in his study of them by Other Men's Searches. But, where he wanders out of this plain Track, and leaves his Domestick Guides, he stumbles. With the Other Parts of Knowledge, that relate to this Argument, he is not over-well acquainted; and if he were, yet he hath not the sole keeping of them, nor can they be Secrets to any Scholar: and here therefore he cannot either Mistake himself, or lead Others into Mistakes, securely.

He hath depended very much on this Advantage in his Last Performance; which (to give him my Real Opinion of it, at Once) is a very Partial, Imperfect, and Disingenuous Account of things; and hath more False Colours and Disguises of Truth in it, than any one Book I know in the World --- except the History of the Last Convocation. It is a Collection of Precedents on One side Only, and those forc'd into the Service of his Cause by false Glosses, and strain'd Interpretations; without a Mention of many of the most Pregnant Authorities, that make for the Rights of the Lower Clergy. This I speak, upon a Certain Knowledge; and am able, tho' the Registers should never come into the Office again, fully to prove it.

The Reader may, in short, be convinced of this, by observing what he hath said upon the Head of appointing a Subprolocutor, in the first part of his Work\* and comparing it with the Authorities produc'd on the same Head, in Numb. I, and with the Chapter, which he was, by this means, forc'd to add afterwards, \* at the Close of his

\* p. 74,  
&c.

\* p. 268,



his Book, in order to account for the Precedents, which he had, in the Body of it, industriously conceal'd. I meddle not with that Debate at present; but only refer the Reader to his Way of managing it, as One Instance of that Unfair Dealing, which he is to expect, and will find, in almost every Article of his Collections, when any Knowing Hand shall be at Leisure to examine them. At present, my Concern with him is only in relation to the Schedule, and the Power of the Lower-House to Adjourn it self.

I am very sensible, how worthless such Studies and Enquiries as these may seem to Most Readers; and, perhaps, Value them as little, as those who know less of them. But I saw, they were Necessary towards Understanding, and composing a Dispute, lately rais'd in this Church: and thus far, as a Proper Means in order to that End, I thought them worth my pursuing. If I have sav'd Greater Men (who know how to employ their Time and Thoughts better) the Trouble of such a Search, I hope they will forgive me; and that Thus far at least the World will reckon it self Oblig'd to me.

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*Lately Published in Defence of English Convocations, &c.*

**T**HE Rights, Powers, and Privileges of an English Convocation stated and vindicated; in Answer to Dr. Wake and others. By Francis Atterbury, D. D. the second Edition Enlarged.

The Rights, Liberties, and Authorities of the Christian Church, asserted against all oppressive Doctrines, &c. In Answer to Dr. Wake and others. By S. Hill Rector of Kilmington.

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A Narrative of the Proceedings of the Lower House of Convocation, drawn up by the Order of the House.

An Expedient propos'd, Or, the Occasions of the late Controversie in Convocation Considered. And a Method of Adjournments pointed out consistent with the Claims of both Houses.

A Faithful Account of some Transactions, in the Three last Sessions of the Present Convocation. In a Letter to a Friend. No. I.

A Continuation of the faithful Account of what pass'd in Convocation, in a Second and Third Letter. No. 2, and No. 3.



T H E  
C A S E  
O F T H E  
S C H E D U L E  
S T A T E D.

**T**HE Late Author, who asserts the *Arch-Bishop's sole Power of Proroguing the whole Convocation*, founds his Claim principally on Two Heads, *The Schedule of Adjournment*, Read in the Upper-House; and the *Form of Continuation*, by the word *Intimavit*, practis'd in the Lower. These Two, he says, are a *Legal Determination of the Authority, by which the Inferior Clergy are continued* [p. 64.] Upon these, *The Legal Decision of the Question chiefly depends*, [p. 55.] *the whole Controversy, in effect, turns* [p. 35.] Being very desirous of Informing my self, where the Right lay, and pleas'd to find so intricate and diffus'd a Dispute brought to so plain and short an Issue; I resolv'd to ~~consider~~ these Two Points with Application and Care. Upon Enquiry, I could not perceive that the latter of these, the use of the word *Intimavit*, deserved all that stress which this Author laies upon it: But as to the former, *The Schedule of Continuation*, I soon found cause to agree with him, That it was indeed a Point of great Consequence; and such as, when thoroughly understood, would go a good way towards a Decision of the Controversy about *Adjournments*, at present depending. I endeavour'd therefore to search to the bottom of this Point, and to give my self as full and clear an Account of it, as the remaining *Monuments of Convocation* could furnish me with: And I shall now lay the impartial Result of all my Thoughts and Enquiries on this Head, fairly before the Reader.

The importance of this dispute, acknowledged.



## The Case of the Schedule stated.

A short  
State of  
the Case.

The Question is, What Influence the Arch-Bishop's Schedule of Adjournment hath on the Rising, and Sitting of the Lower-House of Convocation? In answer to it, I lay down the Three following Propositions, which shall, in the Course of these Papers be fully made good.

First, I apprehend that the Schedule doth, strictly speaking, Adjourn the Upper-House only; that is, Those, who are, or are suppos'd to be Present, and Consenting to it, when, and where it is Read.

However, Secondly, I acknowledge, That it may be said, in some sense, to Adjourn the whole Convocation; that is, the Synodic Session of both Houses: which it determines for the Present; fixes the Day on which the next Session is to be held; and at which the Lower-Clergy are, by the Custom of Convocation, and the Duty which they owe to their Metropolitan, and his Suffragans, bound to attend.

But then, I affirm also, in the Third place, That it lays no Obligation upon the Lower-House, to take immediate notice of it, and disperse; but leaves them perfectly at liberty to sit on as long as they please, after my Lords the Bishops are risen; and to meet and transact Business, on any Intermediate Day, between Session and Session.

This is, in short, the Opinion, which, after a very diligent search, I have entertain'd concerning the Schedule: I shall now open to the Reader the several Grounds and Reasons, I went upon, in framing it. In order to lay these before him, methodically, and clearly, I shall consider the Schedule Five several ways; As to its Antiquity and Rise; its Nature and Design; the Form of it, and the peculiar Manner both of Executing, and of Obeying it.

The use of the Schedule plainly began in the Reign of Henry VIII. there being no footsteps or hints of it to be found in the Elder Records of Convocation, which are entred in the Registers of the See of Canterbury, with great Formality and Exactness; and reach as low as the Year 1488. And it is not conceivable, that they should be totally silent concerning such a Practice, if it had, during that period, obtained; especially, since there is frequent mention, in those Records, of Schedules \* upon other Occasions, and an Entry sometimes made of the very Instruments themselves, by which the Arch-Bishop empower'd others to Adjourn for him. The precise Year of Henry VIII. which gave birth to it, cannot certainly be fixed: But from the Abridgement of the Acts of the Upper-House in 1529, we learn, That it was then Customary to Adjourn in Scriptis, that is, by a written Form, which was afterwards called, The Schedule of Adjournment: For in the Second Session of that Synod; the Extract speaks thus, Reverendus



The Sched-  
ule no  
Older then  
H. 8.

\* See 9.  
May. 1421.  
17. Oct.  
1424. 10.  
May 1438.  
11 Dec.  
1439. 26.  
Oct. 1444.  
17. Feb.  
1394. 23.  
Jul. 1463.  
21. Mar.  
1480. 26.  
Feb. 1486.



*Locum tenens*—*Continuavit, &c. cum verbis in scripto; quod Scriptum ibidem sequitur, &c.* And in the 10th, 11th, 12th, 13th, & 20th Sessions the like Phrase recurs. The Act of Dec. 16. 1534, is yet more exprefs; for thus it runs: *Quo die Episcopus London. Continuavit in diem Veneris, in horam 2<sup>am</sup>; ut in Papyri Schedulâ quam in Manu tenuit.* The Defender of the Arch-Bishop's sole Power omits some of these Instances; and adds another (which he thinks more pertinent than any of them) in the following words—*Item inseritur tenor Continuationis sive prorogationis in Diem Martis prox. &c. p. 38.* But here the mistake of the Extracter deceived him: For this was a *Prorogation*, made upon a *Royal Writ*, from Nov. 5. to Feb. 5. 1532; and is no instance of the *Ordinary* method of *Adjournment, de die in diem*, which we are now Enquiring after.

From 1488, to 1529. we have no Acts, and therefore no light to guide us. However, I conclude, That this manner of Adjourn-  
 ing, could be but little elder than the last of these Periods; because I find, that soon after this it obtained, in the Province of *York*; where the Patterns, set by the Synods of *Canterbury*, were quickly us'd to be followed. The entire Acts of a Synod, held at *York*, in 1530 & 1531, are extant; and in them, there's no mention of continuing by *Schedule*: But in 1545, where the Convocation-Book of that Province begins, the *Schedule* is not only mentioned, but the very *Form* of it is also several times at length Recorded. So that the Practice here at Home could not, I say, be much older than the Synod of 1529; and there is great Reason to believe, that it took rise in the Convocation of Apr. 20. 1523, which was the first Synod that was held here, after the *Lateran Council*, ending in the Year 1517. For in that Council the Indiction of the General Sessions was made after this manner, by a Formal Instrument, inserted in the Acts of it, and thus Entitled, *Schedula Indictionis* [See Sess. 9.] *Schedula Prorogationis* [See Sess. 8.] *Literæ sive Schedula Prorogationis* [See Sess. 7.] *Cujus Tenor talis est.*

'Tis true, in the Acts of the Preceding Councils of *Pisa*, *Constance*, and *Basil*, it is mentioned; but rarely: nor were those Assemblies themselves (nor, consequently, their Usages) of clear unquestioned Authority; for Reasons, well known to such, as know any thing of the story of that Time. The *Lateran Council* was the First, wherein such a *Schedule* was Regularly and Uniformly practised; nor was there (as the Law of the Church then stood) any Exception to the Authority of that Meeting. No wonder therefore, if Arch-Bishop *Warham*, who was bred up in the Canon Law, and in a Reverence for the Forms of it, should

## The Case of the Schedule stated.

have transcrib'd the Pattern thus set, in the next Convocation he call'd after the Dissolution of this Council; and by that means have introduc'd the Practice of *Adjourning* by *Schedule* into our Synods in *England*: which, while the Papal Power prevail'd here, adjusted themselves always in their Forms and Usages, to the Practice of General Councils, as nearly as was consistent with that Parallel between the *Civil* and *Ecclesiastical* part of our *Constitution*, which they were at the same time bound to maintain.

This, upon the best information I can get, is a True Account of the *Rise* of the *Schedule*: and I have given it, not merely to satisfy the Reader's *Curiosity*, or to clear the *History* of it; but to let him, by this means, into the true *Design* and *Meaning* of the Instrument: which will now easily be understood, by reflecting on the Account given, and comparing it with some other *Circumstances*, that attended the Admission of this Way of *Adjourning*. For,

Like that  
therefore,  
an Ad-  
journment  
by Common  
Consent.

1<sup>st</sup>. We may from hence Collect, that the *Schedule* was an *Adjournment* by *Common Consent*, not an Arbitrary Act of the *Arch-Bishop's Sole Power*; because the *Lateran Schedules*, which were the Patterns of the *English* ones, when they were form'd and published in the several *Sessions* of that Council, took in always the *Consent* of it, and ran in this or the like manner; *Leo Episcopus, &c. Sacro approbante Concilio. Ut hoc Sacrum Lateranense Concilium ad finem perducatur—Decimam Sessionem Continuationis Celebrationis ipsius sacri Lateranen. Concilii Kalend' Decemb.—sacro Concilio approbante, indicimus—Datum Romæ in Publica Sessione, &c.* These Schedules were propos'd to the Council, we see, and approv'd by it; every Member, having a Right of *Assent*, and *Dissent* in this, as well as in any other Synodical Act. Indeed, when the *Congregations* (or *Committees*) of the Council had not sufficiently prepar'd and ripen'd Business against the next appointed *Session*, and it was agreed to defer it to a further Day; the *Schedule* of *Prorogation* ran in the *Pope's Name* only, *cum Concilio Venerabilium Fratrum nostrorum*, that is, of the *Cardinals*: because the *Council*, being then *adjourn'd*, could not be consult'd with in Form; and it was necessary therefore that the *Pope* and *Cardinals* should, upon such Emergences, have a *Provisional Power* of deferring the *Session*, till Business was ready: which yet I doubt not but they exerted, at the Instance of the *General Congregation*, held previously to each Synodical *Session*; though the Printed Acts, extending not to all that was Debated and done in those *General Congregations*, consequently give us no Account of it. But sure we are that these Papal Prorogations upon Extraordinary Emergences, were, in the  
next

next Session of the Council always solemnly approv'd and Ratify'd by it \*: which shews, that they were made, not by a mere Papal Power, but upon a Reasonable Presumption of the after Concurrence of the Council; which was necessary to compleat the Validity of the Act: and therefore, that any Abusive Exercise of this Power in such Instances, to which the Council would not afterwards have concurr'd, had been invalid, and Null.

\* Vide Bullam 3<sup>tie</sup> sessionis: & Schedulam Indictionis 7<sup>me</sup> Sessionis;

ubi dicitur, Itaque Prorogationem hujusmodi [beyond the Day of the Session appointed by the Council] per Nos tactam [i. e. by the Pope] approbante eodem Sacro Concilio, approbamus, &c.

However, setting these Instances apart; all Schedules, I say, that were fram'd, while the Council was sitting, issu'd by the Formal and Express Consent of the Council it self, which was acknowledg'd in the very Tenor of them: and it cannot therefore, be suppos'd, that the English Schedules of Adjournment, copy'd from these Foreign ones, carried a more Peremptory Sense than their Originals; or rais'd the Arch-Bishops Power to a greater heighth in this respect, than what the Pope himself did then pretend to: Especially, if it be considered, in the

† A new Clause added to the Arch-bishop's

2<sup>d</sup> place, That, at the precise time, when these Schedules were first practis'd among us, a † New Clause was inserted into the Arch-Bishop's Mandate of Summons, ordering the Capitular and Diocesan Clergy to send up sufficientes Procuratores, habentes in eâ parte Autoritatem, Potestatem, & Mandatum sufficient' Continuationi & Prorogationi Dier. ex tunc sequentium & Locor' si oporteat, Consentiendi——

Mandate, when the Schedule was first introduced.

\* The first Mandate wherein we find this Clause, is of the Year 1522, and went out for the first Convocation that met here, after the close of the Lateran Council. The same Clause was repeated in the next Mandate, for the Synod of 1529, when the Extracts from the Records of Convocation (which reach no higher than this Year) expressly mention this way of Adjourning by Schedule: Which therefore could not possibly be an Act of the Arch-Bishops sole Power; because He himself, in his Mandates for these Meetings, acknowledged the Want of such a Power, and that it could be exercis'd only by Common consent; and for that Reason requir'd the Proctors to

\* The Historian of the last Convocation (p. 24.) blames the Author of the Power of the Lower-House, &c. as not citing this Clause entirely and

fairly, because he represents the Lower Clergy only as requir'd to bring up their Consent to Adjournments; whereas, says the Historian, the Arch-Bishop's Design, did equally extend to his Suffragan Bishops, Vicars general, Deans, Abbots, Priors, &c. who—were to have Power of Consenting to the Prorogation of the whole Body. And the Author of the Reflections talks after him in this Point, [p. 29.]: as if that were unquestionably the sense of the Mandate. I have considered it carefully, as 'tis Printed after a Third Letter to a Clergy-man in the Country, &c. and cannot imagine, what could lead these Authors into such a mistake; which is repugnant to the plain Construction of the words in the Instrument, and to the Reason and Nature of the thing: For what need was there of warning the Bishops, and Dignitaries, to bring up Powers of Consenting to Adjournment? Or who should give them Power to this purpose?

bring



## The Case of the Schedule stated.

bring up from their Principals Express Power and Authority to Concurr in such Adjournments. And as an Author (whose word may, in this case, be safely taken) observes, *The least that [such a Clause] can imply, is, an INABILITY in his Grace to Continue the Convocation, without the Concurrence of the Cathedral, and Diocesan Clergy, so empowered.* [Right of the Arch-Bishop, to Continue or Prorogue the Whole Conv. p. 19.] A Confession, that voids all Pretences to a Sole Power of Adjourning, suppos'd to be lodg'd in the Arch-Bishop; and consequently to any Interpretation of the Schedule that Supports, or Countenances such a Power! For if, when these clauses were inserted, the Arch-Bishop was under an Inability of Continuing the Convocation, without the Consent of the Lower Clergy, and yet practis'd this Method of Adjourning by Schedule, it is manifest, that the Adjournment made by the Schedule, could not affect and conclude the lower Clergy, till they themselves had expressly agreed to it. The Mandate, and the Schedules, relating to the very same Convocation (for instance, that of 1529.), cannot be imagined to have carry'd in 'em Contradictory Implications; nor the one to have acknowledg'd a Right in the Inferior Clergy, of which the other abridg'd them. And if these Instruments were Consistent, no advantage can be made of the Schedule towards fixing a power in the Arch-Bishop, which He himself disclaim'd in the Mandates he sent out, at the same time those Schedules were fram'd.

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dule.

Indeed this Clause in the Mandate, is the True Key that will open to us the Meaning of the Contemporary Schedule For when Arch-Bishop Warham, in compliance with the Methods of the Lateran Council, design'd to Introduce this new way of Adjourning, the Lower Clergy were in possession of a Distinct Right of Consenting to Synodical Continuations, as shall soon be prov'd: and a Change therefore (especially, so Important a Change) in the Methods and Formalities of Adjourning; could not so regularly, or easily be introduc'd, as with the consent of those, who had now a share in the Act of Adjournment. An Hint therefore was given of the Arch-Bishop's Intentions in his Mandate, that so the Proctors might come up sufficiently Impower'd to comply with them: And a solemn Recognition was there made of the Right of the Lower Clergy, in this respect; that so they might comply the more readily with a Form that might otherways have been (as we see it now actually is) interpreted to the disadvantage of their Privileges. The Dignitaries of the Lower-House, who acted for Themselves alone, could Determine themselves, as they thought fit, when they came up to Convocation



## The Case of the Schedule stated.

7

cation; and to *Those* therefore the Admonition in the Mandate was not directed: But only to the *Representative Clergy*, who could not well give in to such a new Method, without Powers from their Principals.

Thus, as I apprehend, came the *Clause* into the Archiepiscopal *Mandate*, to make way for the practice of a *Schedule*, which grew up with it, and was founded upon it: and which is so far therefore from being an *Objection* against the Right of the Lower Clergy to concur in Synedical Adjournments, that it is itself a remarkable *Testimony* of it. The Arch-Bishop, perhaps, might have other By-aims, and Collateral Views, in what he did; but this, I take to have been the chief Ground, upon which he acted; the rather, because, after much search and thought on this Subject, I have not been able to give my self any other satisfactory Account of it. Sure I am, that what a Late Writer hath urged on this Head, in his *History* of the last *Convocation*,\* is altogether frivolous and groundless. He makes the reason of inserting this Clause to be, if I understand him right, (and 'tis sometimes pretty difficult to understand him) that the Arch-Bishop and his Clergy might joyn with the Cardinal in his Legatine Synod, then concurrently to be Held, and yet keep up the Convocation of this Province, in a distinct and independent Body; and so hinder it from being dissolv'd by such an Union, and leave Himself, and them, at liberty to Retreat and Act apart in a Provincial Synod (as indeed they did) after they had appear'd with the Province of *York*, before the Legate. But this is all a precarious Scheme, and lies open many ways to Confutation. For there was no *Need* of such a Clause, to reach the End, for which he pretends it was inserted: Nor was the *Arch-Bishop* more *Capable* of attaining that End, *with* such a Clause, than *without* it. There was no need of such a Clause, to prevent a *Dissolution* of the Synod of this Province, by its joyning with that of *York*, under the Legat; because there was no danger of it's being *dissolv'd*, by such a *Conjunction*. In order to prevent this imagin'd Danger, nothing more was necessary, than an *Adjournment* of the Convocation of *Canterbury*, to a Distant Day, or Hour, till the Business, upon which they were to Treat with the Legate, was dispatch'd: after which, they might be sure of meeting again *Provincially*, at the *Time* prefix'd, without running any Risque of a Dissolution by Mixing with the Legatine Synod. Accordingly, when the Clergy of both Provinces met together afterwards in the Chapter-House of *Westminster*, on *June* the 2d, by pure *Legatine Authority*, they still preserv'd the distinction of the Provinces, by Acts of Adjournment, and Dissolution, made apart from each other.

Another Reason given for the Insertion of this Clause, insufficient.

\* P. 24. 25.

And

*The Case of the Schedule stated.*

And the Grant therefore of the Province of *York*, (as well as of that of *Canterbury*) is, in the Instrument of it, said to have been made, in a *Convocation* of that *Province*, begun on such a Day, *Et de diebus in dies Continuatâ*; without any mention of their joining with the other Province; because, tho' they united occasionally with them, yet they kept themselves entire, by separate Provincial Adjournments. And this seems to have been the way which was practis'd in the time of Cardinal *Pool*; when the Province of *York* came up, and sat in the Chappel at *White-Hall*; the Clergy of *Canterbury*, meeting in the mean time at *St. Pauls*, and acting with them, or asunder from them, as there was occasion: and still the Convocations of both Provinces were preserv'd separate and entire, without being Dissolv'd, or Confounded, by such an Occasional Union.

Should the Arch-bishop have apprehended a *Dissolution* of his Synod, by its appearing before the Legate, yet how was he better Enabled to prevent it by the putting of this Clause into the Mandate, than by leaving it out? For, whether the Convocation were Adjourn'd by *His* or by *their Own Authority*, they were never the more, or the less lyable to be *dissolv'd* and *incorporated* (as the Historian Speaks) in the Legatine Synod, when they appear'd in it; as they did, on *Apr.* the 22d. The Clergy's bringing up *Powers of Consenting to Synodical Adjournments* could be no Barr to the Legates *Presiding* over them, and *Adjourning* them at pleasure, when they met before him at *his* call: On the contrary it would rather have *facilitated*, than *hindered* the Exercise of his Legatine Authority over them; by leaving them without Excuse, if they declin'd to meet him, when, and where he thought fit, after they were invest'd with such full Powers of Consenting to whatever Adjournments should be made of their Provincial Assembly. And if *Warham* therefore had an Eye on the Legatine Synod, when he added this Clause to his Mandate, 'tis probable that he intended it, rather as a Means of bringing the Two Provinces together, than of keeping them asunder. And this indeed is a Supposition, which may be thought to receive some Countenance from a Passage in the Cardinals Mandate of *May* the 2d, which I shall not now stop to consider: Whereas nothing can be more Improbable, Unskilful, or Confus'd, than the *Historian's* way of accounting for the Insertion of this Clause; and I think, it might be prov'd (were it worth while) that of all the Conjectures, which may be advanc'd on this head, That which He hath offer'd, is the very worst, and weakest.

Mhe Mandate of 1532, and 1536 not otherwise accounted for.

But were it never so satisfactory, in relation to the Mandate of 1522; yet how will it account for the insertion of the same Clause

Clause in the following Mandate of 1529? when the Cardinal appears not to have had any thoughts of holding a Concurrent Legatine Synod? When the Contest between him and Warham, and indeed the Legatine Power it self, was now at an end: The King having actually forbid the Exercise of it, the Cardinal being Disgrac'd for it, Indicted, and Judg'd in a *Premunire*, before this Convocation met. There was no likelihood of a Clash between these two Powers, at a Juncture, when the Cardinal was in his Declension, and upon the Brink of utter Ruin. So that Here the Expedient laid hold of, manifestly fails; and is yet less unserviceable to inform us of the Reason, Why the same Clause should be continued in the next Mandate for the Convocation of 1536; where it is at last, with much adoe, acknowledged to have had place also. \* The Historian collects from some *Intimations*, That it was *probably* there [p. 27.]. But the Author of the *Reflections*, grown wiser by late Experience, frankly and openly owns it [p. 29.]: For to what purpose should a Man seem willing to hide that, which, after all, cannot be hidden? Now in 1536, both *Wolsey* and *Warham*, were at peace in their Graves, and Arch-Bishop *Cranmer* govern'd the Church without a Rival.

\* 'Tis strange to observe, with what reluctance the Historian acknowledges this Clause to be in Three

Successive Mandates; and how *inconsistently* he expresseth himself, upon this Occasion. For he introduces his Acknowledgment, and Account of that matter of Fact, in these remarkable words—"This Clause of consenting, being no part of the Common Form of Mandates, but occurring in *One*, suppose, of *many Hundreds*; we may believe, there was some *Extraordinary occasion* for such a *Singular Instance*: and such an *Occasion* indeed there was, that had *never before*, nor did at *any time after* happen; so as no wonder a *Special Clause* should be inserted, not to be met with in *any* of the *foregoing*, nor in *any* of the *following Mandates* [p. 24.]. And yet the very next thing he doth, in the following Lines, is, to account for the Insertion of this Clause in the Mandates of 1522, 1529, and 1536. Had these words been plac'd at a distance, one might imagine, he had forgotten them: where as now I know not what Excuse to make for him.

The Historian is perfectly at a loss, how to account for this *Third* Mandate, and would fain have it go for a pure *Error* of the *Register*: supposing him to have copy'd it from the Form of 1529, by a *Mistake*. A Supposition, so Unreasonable, and Extravagant, that nothing but the despair of accounting for this Mandate any other way, could have tempted him to make it!

\* He is mentioned as a Publick Notary, employed in such Services as These.

Registrars were, at that time, when the Canon-Law flourish'd, Men of great Skill in their Business, and not apt to make Mistakes in Forms; especially, not such important Mistakes as these. *Potkyn*, a Clergy-Man, the present Register of the Arch-Bishop, had been so, for many Years; \* and must have known the Reason of inserting this New Clause in the Mandate of 1522, which He himself probably drew. If the Contest between

A.D. 1499. in the Register of Arch-Bishop Dean f. 8. b.



## *The Case of the Schedule stated.*

the *Legatine* and *Metropolitanical* Authority had occasion'd it, is it credible, that he should have continued this Clause, after that Contest, and the Legatine Power it self was at an End? And have repeated it in two several Mandates, without observing the Impropriety of it? They that can believe, or pretend to believe this, are proof against all the Arguments, which may be drawn from Records: For this is an effectual Answer to all of them.

The *Historian* observes, That a Summons from the Prior and Chapter of *Canterbury* in 1532, wanted this Clause: Perhaps it did, for a very good Reason. *Warham* dy'd, while the Convocation of 1529. was separated, upon a Royal Prorogation. The Guardianship of the Spiritualities did, upon this, Devolve to the Prior and Chapter of *Canterbury*; and a New Writ consequently Issu'd, to Convene the Clergy *before Them*; whereas their first Writ had called them only to Treat with Arch-Bishop *Warham*. Here was no *New Choice* of *Proctors*, but a *Re-summons* only of the *same*, who had been already sent up, with *full Power of Consenting to Prorogations*, at the entrance of this Synod; and therefore needed not any such Directions *Now*; or afterwards, when they were again Cited to appear before Arch-Bishop *Cramer*. But when *New Proctors* were to be Chosen for a *New Convocation*, in 1536, then they were expressly Warn'd by the Arch-Bishop, to come up with Instructions to *Consent to Synodical Adjournments*. And though after this, the Clause was omitted in the *Archiepiscopal Summons*; yet the Reason of that Omission was, because the Practice of a *Schedule*, which gave rise to it, was now fully established; and the Phrase, *sufficientes Procuratores*, would now easily be understood, to mean the same thing, as the Larger *Explication*, which had been given of it. For, in Truth, the New Clause, we are speaking of, was inserted only to interpret that old Phrase, in one Instance, to which it extended, and which there was now a particular Occasion to Explain: And, we see therefore, it runs in this manner—*per SUFFICIENTES Procuratores [habentes in eâ parte Potestatem, Auctoritatem, & Mandatum SUFFICIENT' &c.]* The Latter Words are merely *Explicative* of the two Former: And when therefore this Sense of them was agreed on, and fully fix'd, there was no need of continuing the *Explication*; because all that was meant by it, was now known to be included in the Phrase, *Sufficientes Procuratores*, and in the other General Words, which there afterwards follow—*Uteriusque facturi & recepturi quod justum fuerit, & hujusmodi Negotiorum Qualitas & Natura de se exigunt & requirunt*—which were to be *Standing and Perpetual* Parts of the Mandate; and by which therefore,



fore the Clergy concern'd, have, at this day, as good a Right to their share in every Act of Synodical Adjournment, as if the larger Comment on these words [*Sufficientes Procuratores*] had been all along at length inserted. For a Recognition of their Right of *Consenting to Adjournments*, made by the Arch-bishop himself, in *Three* successive Instruments for *Three* several Convocations, was so solemn and authentick a Testimony of it, as did not need being repeated, every time his Mandate issu'd. The Clergy were now in full possession of this Right; and their Practice therefore was as good a Comment on the general words of the Mandate, as any the Arch-bishop himself could make.

One thing, that might furnish an Occasion for the *Omission* of this *Clause*, was, in all likelihood, the *Omission* of the *Schedule* itself, which gave Rise to it; of which, from this time, till the Year 1562, we hear nothing in the Records of Convocation; and have reason therefore to believe, that the Practice of it was thus long intermitted: Otherwise, the Upper-house Journals of 1554, & 1557, (to name no others) would have taken some notice of it: nor would the *Directory* of Arch-bishop Cranmer, in 1547, have passed it over in silence; whereas it is mention'd in that of Arch-bishop Parker, A. D. 1562, which seems to have reviv'd the use of it. If such a Discontinuance of it about this time prevail'd, (as 'tis highly probable, it did) we are not to wonder, that the Mandates should immediately afterwards be fram'd, as they were, *before* the Use of the *Schedule*: and when it was again introduc'd in 1562, still the Mandate might stand as it did; because there was no need of acknowledging the Clergy's Right to Separate Adjournments, *then* sufficiently secur'd, and establish'd.

Thus much, to shew the *Reason* of *Inserting* this New Clause, and the Relation it bears to the *Schedule* of *Adjournment*, at the same time introduc'd. Not that such an Account of the Clause was necessary, in order to the Use I make of it. For, whatever Dispute there may be concerning its True *Occasion*, there can be none about its *Meaning*; it being confessed to imply † an *Inability* in the Arch-bishop to *Continue* the Convocation by his own *Sole Authority*: and consequently, under any *Supposition*, that shall be made, of the *Rise* of this Clause, still the Inference, I build upon it, will hold good; that the *Schedule*, now obtaining, could not possibly be intended to Adjourn the Lower Clergy, without their *Consent*; which was allowed to be necessary to every Synodical Continuation, by the Arch-bishop himself, in his Contemporary Summons. This will yet more clearly appear, if it be consider'd.

The Inter-  
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the Clause.

† Right  
of the  
Arch-  
Bishop. p.  
19.

## The Case of the Schedule stated.

Before the  
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3ly, That, *before* the Schedule took place, the Clergy manifestly had a *share* in the Act of Continuing the Synod; and can be prov'd to have exerted it [both here, and in *York* Province] *about*, and even *at* the very time, when this Instrument first obtain'd. Such a Proof of their Concurrence in Adjournments is not now easy to be made out, because they Consented *below*, in their *Own House*; and the Lower House-books, which should have given us an account of it, are all irretrievably lost. However it so happens, that in some Instruments and Forms yet remaining, there are manifest Evidences of it still preserv'd.

From the *Acts* of the Convocation in 1488 (the *Last* that are entred in the *Arch-bishop's* Registers) it appears, that the Synodical Forms of Expression, which seem'd to Countenance the Arch-bishop's *Sole Power*, and which he had taken up, upon the strength of his Legatine Character, began now to be diffus'd; and instead of them, Others obtain'd, which were more for the Honour and Advantage of his Suffragans, and the rest of the Clergy. The Synod is never once in those Acts styl'd, *Convocatio sua*, as it us'd to be in Elder Times; but *dicta Convocatio, hujusmodi Convocatio*, or the like.

Not only the *Bishops*, but the whole *Clergy* of the Province, are there several times said to be the Arch-bishop's *Assessors*: *Reverendissimus, pro Tribunali sedens, ASSIDENTIBUS sibi Suffraganeis, & Clero Prov. sua.* Morton. fol. 43. a. Again (*Penult. Jan.*) *Sedente—Reverendissimo—pro Tribunali, Assidentibus sibi Reverendis Patribus Suffraganeis suis, & Clero Prov. sua Cant. &c.* And so, 27. Feb. *Reverendissimo—pro Tribunali sedente, assidentibus sibi Prælati & Clero sua Cant. Prov. &c.* And the same Expression I find had been us'd once before, in the Convocation of 1486. Feb. 24. *Ibid.* fol. 34. a. Tho' the *Historian* of the Last Convocation would persuade us, that the Clergy were never joyn'd as *Co-assessors* to the Bishops. [Notes on *Forma Conv. celebr.* p. 6. c. 1.]

Matters of Common Form are there said to be transacted with the *Consent of the Suffragans*; particularly, Jan. 14. after reading the *Certificate* of the Bishop of London, *Reverendissimus—de Consensu Suffraganeorum suorum, Magistros [such and such] ad recipiend. alia Certificatoria, & Procuratoria Prælatorum & Cleri—suos Commissarios—deputavit.* Near half the *Adjournments* in these Acts run in this Style, and some of them are so expressed, as to intimate also the *Concurrence* of the Lower Clergy. 10 Feb. *Dominus—de Consensu Suffraganeor. suor' continua- vit.* 12 Feb. Nine Bishops, there nam'd, appear'd; & *post alia communicata inter eosdem, Dominus Norwic. De Consensu eorun- dem*

dem Continuavit dictam Convocationem. 21 Feb. Dominus Norwicens. præsente Heref. Episcopo, ac ceteris Prælatiis, & Clero, continuavit. 4 Feb. Dominus Norwicens.—de Consensu ibidem præsentium continuavit. Finally, Reverendissimus pro Tribunali sedens, Affiditibus sibi Suffraganeis, & Clero Prov. sue,—habitis inter Eosdem diversis Communicationibus, continuavit hujusmodi Convocationem. fol. 43. a.

Soon after this, the Two Houses seem to have kept distinct Journals; and the Separation of them, as to the Forms and Methods of doing Business, receiv'd its Full and Final Accomplishment. The Lower Clergy, from this time, were more considered in the Circumstances of Acting, and their Consent to them was more expressly had, and declar'd; particularly in the Point of Adjournments; as the following Instances will plainly prove.

A Mandate of Arch-bishop Deane's, dated 7 March 1501. recites, how he had call'd a Synod to meet on the 14 of Feb. before; which was then inchoata, & aliquandiu de diebus in dies continuata: But the Business of it could not then be dispatch'd, because of the Absence of several Bishops, Prelates, and Proctors of the Clergy, &c. Et propter alias Causas Legitimas coram nobis per Clerum prædictum tunc & ibidem allegatas. For which reasons, ipsam sanctam Synodum Provinciale, sive Convocationem, usque ad & in diem Lunæ, viz. undecimum diem mensis Aprilis prox. fut De Consilio & Assensu Confratrum Nostrorum, & Prælatorum, & Cleri antedicti duximus Continuand. & Prorogand. prout de facto continuavimus, & prorogavimus tunc ibidem; præfatōsque Suffraganeos nostros, ac Prælatos, & Clerum, &c. modo & formâ Subscripti, ac ad effectum infra script. Autoritate Convocationis prædictæ, de novo præmunientes & citandos fore decrevimus, & decernimus per præsentēs, &c. Regist. Oliv. King. Episc. Bath & Well. Fol. 83.

The same Mandate, in terminis, issu'd again Ult. Maii 1515. reciting, how a Continuation and Prorogation of the Synod (that met on the 22d of June last,) had been made to the 14th of Nov. next, de Consilio & Assensu Confratrum nostrorum, ac Prælatorum, & Cleri antedicti; and that the Clergy were to be resummon'd to that day, Autoritate Convocationis prædictæ. [Reg. Mayew. Ep. Heref. Fol. 98.] Taylor the Prolocutor's Speech, wherein he press'd this Prorogation, by direction from the Clergy, is Extant; and it ends in this manner—Humiliter DOMINI MEI [that is, the Lower House] Paternitates vestras orant, ut præsentis Sacræ Synodi celebritas in Anni Declinationem differatur & prorogetur, quando salubriorem sanioeremque aeris temperiem Nos Habituros speramus. Where the Reader will observe, that this Applica-



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Application for a Recess was made, not to the *Arch-bishop* alone, but to the whole *Bench of Bishops*, or rather, to the *Upper-House* it self; and made, in the Style of, *Domini Mei*, which, in all his Speeches, is the Phrase he constantly uses, to express the *Lower Clergy*. The Upper House yielded to this Request, the Synod was prorogued; and that Prorogation, and Resummons, is, we see, in the Arch-bishop's Mandate, said to have been decreed by the *Consent*, and *Authority* of Both Houses: than which there cannot be a more express and decisive Proof of the Interest which the Lower Clergy then had in Synodical Adjournments. 'Tis true, These which I have mention'd, were to distant Terms: However, since the Consent and Authority of the Clergy was required to Long Prorogations, we have no reason to doubt, but that it interven'd also in the shorter ones, *de die in diem*; tho' no Acts of those Convocations remaining, it is not to be expected that a clear Proof should be made of it.

The Adjournments of the Convocation of 1529. were by Common Consent.

But in 1529, when the Clause [*cum potestate consentiendi, &c.*] was in the Arch-Bps Mandate, and the Method of adjourning by Schedule obtain'd, those Adjournments appear to have been made by *Common Consent*; for the Clergy's Grant of 1000000 *l.* to the Crown runs in this manner, *Nos Prælati & Clerus—Cant. Prov. in Conv. sive sacrâ Synodo Provinciali in Eccl. Cath. D. Pauli Lond. 5. die Mensis Nov. A.D. 1529. per Reverendissimum, &c. ac per Prælatos, & Clerum Cant. Prov. prædictæ inchoat' & de tempore in tempus Continuatâ, & nuper ex causis urgentibus, ad Domum Capitularem infra Monasterium S. Petri Westm. situatam Prorogatâ, Illustrissimo Principi &c. dedimus & concessimus, prout per præsentem damus & concedimus, &c.* [Rights, Powers, and Priv. p. 516. 2. Ed.] The Continuations, both as to *Time* and *Place*, are here said to have been made by the *Prelates* and *Clergy*, as well as by the *Arch-bishop*; and, doubtless, therefore were pronounc'd by his Grace, with the Express Consent and Concurrence of the *Whole Synod*; i. e. of each *House*, *apart*: for so, from the Upper House Registers of that Synod, the Adjournments of it appear to have been made.

The Language of the *York* Grant of 18840 *l.* which passed a little afterwards, is much the same. *Nos Prælati & Clerus Ebor. Prov. in Conv. sive Sacrâ Syn. Prov. in Eccl. Metrop. D. Petri Ebor. 12. die mens. Jan. A. D. 1530. per Brianum Decanum dictæ Eccl.—& Capitulum ejusdem (Custodes spiritualitatis ibidem, Sede Archiepiscopali vacante) ac per Prælatos & Clerum Ebor. Prov.—inchoatâ, & de tempore in tempus Continuatâ & Prorogatâ, Illustrissimo, &c. dedimus, &c.* [Reg. Dec. & Cap. Ebor. Sede Vac. fol. 642.] And before this, their Instrument of Jan. 14. 1530, by which they relaxed the Debt due

to them from the Crown, was of the like Form and Tenor. [*ibid.* fol. 640,] So that *Adjournments* were then, in both Provinces, reckoned to be *Synodical Acts*, which were *Ratify'd* onely, *declar'd*, and *publish'd* by the *Arch-Bishop*, as all other *Synodical Acts* were; but, though they ran in his *Name alone*, Then, as Now, were not made by his *sole Authority*. Accordingly, when *Tonstall*, Bishop of *Durham*, made his Proctors, on *May 5. 1531*, the Acts of that day say, that he impowered them *ad interessend. & nomine suo agend' omnia & singula quæ in Provinciali Concilio gerenda sunt, & ad consentiendum quibuscunq; pecuniarum Summis Regiæ Majestati concedendis, perinde ac si ipsemet interesset, nec non aliis quibuscunque circa Prorogationem ejusdem gerendis*—*Promittens se ratum, gratum, & firmum perpetuo habiturum totum & quicquid Procuratores sui sic nomine suo fecerint in præmissis, vel aliquo præmissorum*: which shews plainly, that, even when the Forms of Adjournment mention nothing of the *Consent* of the *suffragan Bishops*, yet it certainly interven'd; and so did That of the *Lower Clergy* too, as appears from the *Preceding Instances*, and may yet further be made out from this which follows.

In 1522, the Provincial Synod of *York*, which united afterwards with that of *Canterbury*, under the *Legate*, met first at *York* on *March* the 22d. and from thence adjourn'd to *Westminster-Abby*. The Instrument of that great Subsidy they then rais'd, is recorded at length in *Wolsey's Register*, Fol. 129. and thus it runs. *Cum Prælati & Clerus nostrarum Civ. Dioc. & Prov. Ebor. in nostrâ Convocatione Provinciali—in Ecclesiâ nostrâ Metropolitica Ebor. die Lunæ, viz. 22 die mensis Martii A. D. 1522. inchoatâ & celebratâ, & usque ad Ecclesiam Conventualem Exempti Monasterii B. Petri Westmon — de ipsorum Prælatorum, & Cleri, atque Abbatis & Conventûs dicti Monasterii, Voluntate, & Assensu expressis, in diem 22 Mens. Apr. ex tunc prox. sequent. & deinde de diebus in dies usque ad & in 17 diem mens. Aug. ex tunc prox. sequ. & tandem abhinc usque in 18 diem ejusdem mens. & ad Ædes nostras prope Westm. Locum utique nostræ Jurisdiction' Ebor' solitum & consuetum, Prorogatâ & Continuatâ, &c.* Though a *Legate à Latere* were at the Head of this Provincial Assembly, (yet He Acting in it, as a *Metropolitan* only, not as a *Legate*) it is said to have been continued from *Place to Place*, and from *Day to Day*, by the *Express Will and Assent* of the *Prelates and Clergy*, who compos'd it.

From all these Instances, I think, I may have now leave to conclude, that, *About*, and *At* the very time, when the use of the *Schedule* first came in, the *Lower Clergy in Convocation* were us'd to concur in the Act of *Synodical Adjournment*, and to give an express and

and Formal Consent to it; and consequently, that the *Schedule* at this time introduc'd, can never be suppos'd to have affected their Liberty in this respect, or to have lodg'd the whole Power of Adjourning in the Arch-bishop only.

In these Enquiries about the Clergy's Right of Consenting to Adjournment, I have gone back no further than to the Times, immediately preceding the Use of the *Schedule*, because nothing more is strictly necessary, towards rectifying the Mistakes that relate to it. But that Task being over, it will add some New Light to the Argument, to shew, that their Right to Consent in this Case was not now first gain'd to them, but recover'd only from the Usurpations, that had been made upon it, by the *Legatine Power*. For indeed the Clergy were Originally vested with this Right, from the Time that they were made a *fixt* and *necessa*ry part of every English Synod, and allowed a *Negative* in all the Affairs of it. What hath been asserted by some Late Writers concerning the extent of the *Metropolitick* Power, is so far from being true, that 'tis certain, the Usual Practise of *Provincial*, and of all other Synods, ever hath been, to Adjourn, by the Common Consent of those who had *Decisive Voices* therein. Indeed the Members of Provincial Councils, entitled to this Priviledge, have been different, in different Ages of the Church, and in different Countries: and by the present Papal Canon Law, *Bishops* alone are allowed *Definitive* Voices; the rest of the Members being admitted to give *Consultive* Votes only. However, by vertue of this *Definitive Voice*, which the Bishops enjoy, in the *Greater* Affaires of the Synod, they have equal Interest also in the *Less*; in the *Preparatory* Circumstances of *Form, Order, Time, &c.* particularly, in the point of *proroguing, or Dismissing* the Synod. And so the Congregation of Cardinals, establish'd for determining the Doubts that arose upon the Council of Trent, expressly decided; as their Secretary, *Prosper Fagnanus*, \* a Learned Canonist, from the Original Acts of that Congregation informs

Right of Concurring in Adjournments, not now first gain'd, but recover'd to the Clergy.

\* Cum quæreretur, an Archiepiscopus solus iustis de Causis posset absque aliis Episcopis, dissolvere Concilium? S. Congregatio censuit, non posse, nisi de Concilio & Assensu Coepiscoporum.—Non, nisi de Concilio & Assensu Coepiscoporum, poterit cuiquam silentium indicare, vel iutare aliquod Scriptum, aut Libellum legi, vel tunc non legi; seu mandare aliquem tunc exire à Concilio, vel intrare: etiam si accedat, ut aliquis ex Episcopis Impediat, aut Perturbet, aut cum Archiepiscopo minus urbanè se gerat. Cum tamen ipse sit, Concilium dirigere, poterit ex se mandare, nequis loquatur extra Locum, neve perturbetur Concilium. In l. part. V. Lib. Decretal. De Accusat. c. Sicut Olim. §. 98.

Cum hæc omnia in Concilio Provinciali, ex Suffraganeorum & Metropolitanorum Sententiâ peragi debent, si Metropolitanus est unius Sententiæ, Suffraganei autem alterius, Sanctissimus Dominus noster (to whom the Congregation referr'd this Doubt) dixit Sententiâ prævalere Suffraganeorum, & hoc, Quia habent Votum Decisivum, & sunt Coniudices: & Dicunt Doctores, quod debet Metropolitanus statuere de Concilio & Assensu Eorum, seu Majoris partis—Ibid. §. 104.



## The Case of the Schedule stated.

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us. I mention not this Decifion, as carrying any Authority in it, but only as the Opinion of Men eminently skill'd in the Canon Law, and whose Judgment cannot in this case be suspected of Partiality. For the Decifions of the Court of Rome have been always favourable to the Power of Princes, Metropolitans &c. over their Inferiors (unless in Cases of Exemption, and such as were reserv'd to the Pope himself; ) as known, that the Papal Interest, and Empire was best carry'd on, and supported, by enlarging Their Authority, who were the Chief Pillars of it. And whatever therefore we find deny'd by such Congregations as these, we may, without Enquiry, be sure, was not their Due, by the Elder Canon Law and the Rules of the Primitive Discipline.

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A Decifive Voice then being the Confess'd foundation of that Interest which the Bishops have in Synodick Prorogations; we cannot doubt, but that all such who equally shar'd this Decifive Voice with them, had also Equal Interest in Proroguing the Synods, of which they were Members. And this, I say, was the Practice of all the Greater and Lesser Councils abroad: from which it cannot be imagin'd, that our Domestick Synods should deviate; nor did they, whatever may be pretended.

The Eldest Monuments remaining, from whence any Light of this kind can be had, are the Acts of those Famous Synods, which met, in either Province, at the beginning of the fourteenth Century, for the Suppression of the Knights Templars. They were held with great Solemnity and Form, according to the strictest Methods of the Canon Law; and therefore, from the Records of them, we may surely learn what the Practice of that time was, in relation to Synodick Adjournments.

In the Acts of that Council in Canterbury Province which assembled, 7. Kal. Dec. 1309. the Forms of Adjournment from Day to Day are frequently entred: and there is not a Single one that runs in the Arch-Bishop's Name; but the Phrase of them perpetually is, either, *Continuata fuit illa Dies usque in diem Crastinum*, [or, *usque in diem proximè sequentem*] *in eodem loco*; or, *Prorogatum fuit Provinciale Concilium*. And, upon one of these Adjournments to an Indefinite Time, it is said, that the Council Ordain'd [*Ordinatum fuit*] that such and such Methods should be taken of Examining the Knights Templars in several Parts of the Kingdom - & *quòd, hiis peractis, Londinens' & Cestrens' Episcopi, & Inquisitores prædicti* [who were appointed to take the Examinations] *significarent Domino Archiepiscopo, quòd Concilium iterum convocaret.*

Instances  
of Ad-  
journment  
by Com-  
mon Con-  
sent, from  
the Anti-  
ent Regi-  
sters.

The Acts of the Concurrent Councils, held on this occasion, in

D

York

## The Case of the Schedule stated.

*York* Province, are entr'd at length in the Register of Arch-Bishop *Grenfield*, with the Utmost Formality ; and are One of the Noblest Remains of this kind, that Time hath suffer'd to come down to us. In these, the Arch-Bishop, or his Commissary, are several times said, *diem præfigere*, *Prorogare*, *Continuare*, or the like, by Consent of the Council ; particularly, in the Instances following.

Aët. 4. Diei.] *Dominus Archiepiscopus, de Communi Consensu omnium in dicto Concilio Existentium—dictum diem Veneris, & ipsum Provinciale Concilium prorogavit usque in primum diem Mensis Julii ;*

Aët. 5. diei.] *Præfixit Dominus Archiepiscopus, cum Consensu dicti sui Concilii, eisdem Templariis diem Crastinum ad idem quod prius, Loco prædicto.*

Aët. 8. diei.] *De Communi Expresso Consensu omnium & singulorum tunc in dicto Concilio existentium, idem Concilium prorogavit & Continuavit usque in diem Merc. &c.*

Aët. X. diei.] *Unanimi Consensu omnium in ipso Concilio existentium ipsum Provinciale Concilium usque in Crastinum continuavit.*

And though in Other Forms of Continuation there Recorded, the Arch-Bishop is said *diem præfigere*, without mention of the Councils concurrence ; yet these Forms must be interpreted in Correspondence with Those, where he Adjourn's [ and particularly by the Phrase, *diem præfigere* ] with the Consent of all the Members : For it is easier to account for the Omission of this Consent, though Necessary, in the Entrys of some Adjournments, than for the Insertion of it in others, if it were not necessary.

I have produc'd these Instances the rather from the *Aët's* where they lie, because they are of greater Antiquity than any that are recorded at length in the Registers of the See of *Canterbury* ; and were drawn not long after the time when the Proctors of the Clergy were first admitted to be *standing* Members of our Synod ; and consequently afford us the Clearest Proof of the Interest which they *Originally* had in fixing the Time of Synodical Adjournments.

Afterwards indeed, when the *Legate Born* had made the Clergy totally Independent on the Crown (the Point he was now struggling for) and grew Great and Potent, at the Head of such a Separate Body ; The Continuations generally ran in his Name, without Expressing the Direction, or Consent of the Synod, or even of his *Suffragans* themselves. Nevertheless such Consent might intervene, tho' the Forms of the Adjournment, Authoritatively declared by the Arch-Bishop, took no notice of it : for, as a Late Author observes, *It was natural to make those Continu-*

*ations*

ations the Act of the Person, by whom they were immediately declar'd. [Arch-Bishop's Right, &c. p. 96.] And thus, we know, the Case hath ever been, since the Schedule was practis'd; which hath run always in the Name of the Arch-Bishop alone, tho' we are sure, that he never could pronounce the Adjournment contain'd in it, without the Consent of his Suffragans first ask'd, and obtain'd. And even, during this Period, while the Forms of Dismission were usually contriv'd so much to the Advantage of the Arch-Bishop's Authority; yet still some Footsteps remain in the Ads, of the Interposition of the Bishops, and Lower Clergy, especially in Long Prorogations, or Dissolutions.

Thus, Kal. Feb. 1369. *Arch. hunc diem — ad diem Jovis, de Consensu Fratrum suorum, continuavit, & etiam prorogavit.*

2 Kal. Feb. 1369. *Commissarius — continuavit — Convocationem, unà cum Domino Episcopo Assav. & nonnullis Procuratoribus Cleri, & Religiosis Prov. Cant. — usque ad horam Vesperarum dictæ diei. Quâ horâ Vesperar' adveniente, Idem — de Consensu Quorundam Episcoporum & Procurator' Cleri, & Religiosorum Prov. Cant. tunc presentium Continuavit & Prorogavit dictum Concilium — usque ad diem prox. tunc sequent.*

Jul. 1422. The Arch-bishop *ad petitionem Procurator' Cleri, Excus'd the Absent, and Dissolv'd the Meeting.*

4 Nov. 1424. *Prorogavit & Continuavit Convocationem per Avisamentum expressum, & Consilium Fratrum suorum tunc presentium.*

18 Jul. 1425. *Dominus, ad Petitionem & Rogatum Confratrum suorum — & alior' Prelator' & Cleri ibidem presentium, Convocationem suam — consummavit,*

Jul. 1428. *Visum fuit Expediens tam Dominis Spiritualibus & aliis Prælatibus Religiosis, quàm etiam Clero ibidem existentibus, quòd hujusmodi Convocatio deberet Prorogari —*

*Quibus sic gestis, Dominus, de Consensu Confratrum suorum & ad requisitionem Cleri, Convocationem — prorogavit —*

Oct. 1434. *Ad instantem Petitionem Confratrum suorum & Cleri, Dominus hujusmodi Convocationem dissolvit.*

22 Dec. 1439. *Prolocutor — nomine totius Cleri, humiliter supplicavit, quatenus ipsam Convocationem finaliter dissolvere dignaretur. Unde Dominus de consensu omnium & singulorum Confratrum suorum, totiusque Cleri in hujusmodi Provinciali Synodo congregati, ipsam Convocationem dissolvit.*

In the Last of these Passages, the Clergy are first said to have Petition'd for a Dismission, and then to have Consented to it; in others, their very Petitioning for it implies their Consent to it: for this was the Language of Convocation in all Synodical



## The Case of the Schedule stated.

Decisions, which were entred upon, at the Motion of the Lower Orders: and it was taken up in imitation of the *Parliamentary* style: by which the Commons *pray'd*, and the King, with the *Advice* of his Lords, *Enacted*. But this was matter of *Decency* and *Distinction* only; their *Consent* in these cases was nevertheless requisite, because of their mannerly way of proposing it.

There is another Expression in these Elder Acts, which implies near as much as this, and often recurs there; the Arch-bishop being said to continue, *in presentia Prelatorum & Procuratorum Cleri*: and when they were *present*, and no ways expressed their *Dissent* to what was done, they were suppos'd to *Consent* to it: and therefore the Continuations of 1488 run promiscuously, either *presentibus* such and such, or *de Consensu* of such and such; as I have already shewn.

Upon the whole, what I have produc'd on this Head, from the Registers, proves, that the Defender of the Arch-Bishop's *Sole Power*, was misled by his Zeal for that Cause, when he peremptorily affirm'd, *that the Clergy were never ask'd to Consent to any Continuation of a Provincial Synod, or Convocation*, [p. 22.]: and fail'd very much in his Prudence, when he address'd himself thus to the Writer, with whom he is engag'd—I challenge this Author to produce any one Instance of such Continuations—in which the Consent of the Inferiour Clergy was either ask't or given. [p. 20.] These last Words of Defiance had much better have been omitted, because they shew him to be not so well skill'd in the Records of Convocation, as a Man ought to be, who hath so Easy an Access to them.

The use I make of this Digression is, to satisfy the Reader, that the *Lower Clergy's Consent to Synodical Prorogations*, which I have made out in so many Instances, about the Time of introducing the *Schedule*, was not then first practis'd, but was an Antient and Original Right, to which they were entitl'd from the Time of their first admission to a *Negative* in all Synodical Acts; and which was *Occasionally* exerted by them, even during that Period, when the Arch-bishop's Power ran highest, and seem'd to swallow up all the Rights both of the Higher and Lower Orders.

I return to the Argument drawn from the *Age of the Schedule*; and this is the short summ of what I have offer'd more largely upon it.

Summ of  
the Argu-  
ment  
drawn  
from the  
Age of the  
Schedule.

Whether we consider the *Schedule*, as deriv'd from the *Lateran Council*, where the Instruments of this kind, tho' they ran in the *Popes Name*, yet took in always the Consent of the Synod; Whether we reflect on it, as first Form'd and Practis'd in *Convocations*, which met by *Mandates*, where the *Clergy's Right of Consenting*

to *Prorogations*, was expressly own'd ; Or, Whether we compare it with the *Practise* of *Those* very Convocations, and of *Other* Synods immediately preceding them ; still it is manifest, from the *Original Date*, and *Rise* of this Form, that it can no ways possibly be urg'd to the Prejudice of that Right, which the Lower Clergy then had, and still therefore have of Adjourning themselves. For they concurr'd to it, as they did to all other Synodical Determinations, by a *Separate Consent*, express'd and exerted in their *Own House*, or Place of Meeting ; and were not, without such a *Separate consent*, arbitrarily Concluded, and actually Adjourn'd by it.

I deny not, but the *Adjournment* made *above*, whether *with*, or *without* a *Schedule*, did thus far always affect the Lower House, that they were bound, in Duty to the Arch-bishop, and Bishops, by the Reason of the thing, and the Custom of Convocation, to take notice of it, and to meet at the Synodical Day appointed by it: But this they did, I say, by their Own Act, and were not *included* in what was done *above*, till they had *agreed* to it; And they exerted this Consent where, and in what manner they pleas'd; not thinking themselves under any Obligation either of dispersing, as soon as Notice came that the Bishops were up, or of forbearing to treat on any Other day, till the Bishops met: but were in these Points, left perfectly free, notwithstanding the *Schedule*; as shall, in the Course of these Papers, be more amply shewn. In the mean time what hath been discours'd concerning the *Occasion* of *Introducing* the *Schedule*, will furnish us with some Account (in the

II<sup>d</sup>. place) of the *Nature* and *Design* of it. The *Schedule* is nothing, but an *Adjournment reduced into Writing*, under the Formality of an *Instrument*, which runs in the Name of the Arch-bishop, by whom it is Ultimately *Decreed* and *Pronounc'd*. Such a Way of Adjourning therefore, tho' it adds to the Solemnity of the Act, yet Changes not the *Nature*, or increases the *Efficacy* and *Influence* of it. An Adjournment *in Scriptis* doth not, on the account of its being in *Scriptis*, operate any otherwise, or any further, than it would have done, if pronounc'd *Vivâ Voce* by the Arch-bishop. Now the Archbishop's *Oral Adjournment* in his Own House, cannot possibly be suppos'd to include and dismiss Another Body of Men, who do not hear it; and consequently neither can his Adjournment by a *Written Instrument* include and dismiss an *Absent* house, any more than it would have done, if such an Adjournment had been only *Ore tenus* declar'd.

The Defender of the Arch-bishop's Sole Power observes rightly, that when the *Schedule* came in, *the Clergy did not use to be present*

The Nature and Design of the Schedule, open'd.

## The Case of the Schedule stated.

*present with the Bishops at Continuations.* [p. 38.] How came this Separation in the Act of Adjournment to take place? plainly, because the Lower Clergy were now us'd to Continue themselves by a separate Act of their own Body. It is impossible, I think, to give any Other Rational account of their Absence from the Continuations of the Upper-house. They would certainly have been *present* at them, if they had been *included* in them, and *determined* by them. The Reason of their Retiring apart in all Synodical Matters was, in order to their forming a separate Consent; and the reason therefore of their Sitting apart, when the Upper-House Adjourn'd, must be, because they Adjourn'd also apart: for else, after they had retreated for Consultation, they would have return'd, and been present at the Continuation made above, if *That* had included them.

No Change  
of Practise,  
upon the  
Introdu-  
ction of  
the Sche-  
dule.

The Case being Confessedly thus, when the Schedule came in, that Instrument cannot be pretended to have alter'd the Nature, and Influence of the Adjournments made above, or to have affected the Lower Clergy's Right to Separate Continuations; unless one of these Two things can be made out concerning it: Either, that the Lower House was from that time us'd to be *present* at the Continuations made above; or, that the Instrument it self was, in an *Authoritative* Manner, *Transmitted*, and *Publish'd* below. But I undertake in what follows to demonstrate, that neither of these Changes in the Methods of Adjournment took place, upon the Admission of the Schedule; and therefore I conclude, that the *Nature* and *Intent* of it was the same as of the Arch-bishops Oral Adjournment: and, consequently, that it affected not the Lower Clergy's Right to separate Continuations. Indeed, the Instrument being drawn in a very Formal and solemn Manner, and seeming to carry something more Extensive and Peremptory in it, than the Adjournments which had been made *Ore tenus* only, might be thought apt to raise a Jealousie in the Clergy of some Infringement of their Privileges intended by it; and give a Natural Occasion to the Arch-bishop of inserting a Clause in his Mandate, whereby he did, as it were, renounce any such Encroachment on their Right of Adjourning, and made an Express Recognition of it. Such a step might properly be taken, I say, in order to introduce this New Practise with their Consent, and Approbation; and yet the Practise it self not be intended, or pursu'd, in Prejudice to their Right of separate Adjournments.

The Schedule therefore, when introduc'd, affected the Lower Clergy no otherwise, than the Elder and less Formal Adjournments had done: That is, not till they themselves Consented to the Prorogations made in it. And there is One Instance of



a Prorogation, mention'd in the Records of the Upper-House, soon after the Scedule obtain'd, which will give us great Light into the Nature and Meaning of it. It is, when the King first by *Writ* Prorogued the Convocation, on May 15. 1532. His Precept was Executed, after this manner. The Arch-Bishop, upon Receipt of it, read it in the Upper-House, and Prorogued to the Day it prescrib'd. After which, he sent down by his Register, not the *Writ* it self, but Notice of the Prorogation made above, that they might conform themselves to it, and just before that Notice, some New Business, which the Clergy were to go upon, e'er they brake up. Thus the Extracts—*Quam Schedulam* [that is, the last. Form of Submission, then Read, and Approv'd in the Upper-House] *Reverendissimus tradidit Cancellario suo, ut ipse proponeret eam in Domo Inferiori. Et deinde perlegit Breve Regium antedictum CORAM PRÆLATIS; & Mandavit Willielmo Potkyn ad Intimandum dictam Prorogationem Prolocutori.* This new Method of Proroguing by Royal Writ was, without doubt, adapted to the Form now observ'd in pure Synodick Prorogations. And That, we see, was, for the Arch-bishop to adjourn the Upper House, and then send word of it, by his Officer, to the Lower, that they might, when their Business was over, adjourn to the same time, and meet his Grace again, by their Own Act, on the Day of the Common Session of Both Houses. 'Tis plain, I think, from hence, that the Two Houses were now us'd to be adjourn'd by *Separate Acts*, at *Different Times*, as they thought fit: and the *Schedule* being now practis'd, we may learn from hence something of the *Nature* and *Design* of it; and be sure, that it was never intended to break up the Lower House *immediately*; or *at all*, without it's Own Express Consent to the Continuation there made. In One thing alone the *Writ* now differ'd, as to it's *Manner* of Operation, from the *Schedule*. The *Writ* ran, *hoc instanti die Prorogetis*, and did therefore prohibit either House from sitting, tho' not after the *Hour* in which it came to them, yet after the *Day* wherein it issu'd, till some other *Day* which it prescribed: whereas the *Schedule* only intimated to the Lower House the time of the next Synodick Session, at which they were to appear, without inhibiting them from sitting on any Intermediate Hour, or Day whatsoever.

Let me add upon this Head, one further Remark upon the *Writ* of Prorogation. It was directed indeed to the Arch-bishop, as the proper Person to Execute it; but the Tenor of it ran, soon after it's first framing, as it runs still at this day, *Mandantes præterea ex parte nostrâ omnibus & singulis Episcopis—nec non Archidiaconis, & Decanis, & omnibus aliis personis Ecclesiasticis*

Prorogations by Royal Writ, how Executed?

*cis—quorum interest aut interesse poterit in hac parte, quod ipsi, & Eorum quilibet, Vobis in præmissis omnibus & singulis, faciend' agend' & exequend' intendentes sint, CONSULENTES, AUXILIANTES, pariter & Obedientes, prout decet.* From whence I observe, that at the time of the first issuing of these Writs, Prorogations were reckon'd to be common Acts of the whole Body; since all the Members of Convocation are, we see, directed to *Counsel and Assist* the Arch-bishop in the Execution of them; which implies All to have had a joint Interest and share in the Acts of Prorogation, when these Royal Precepts were fram'd; for they were, without doubt, adjusted to the usual Forms and Methods, which Then in Convocation obtain'd. But this by the bye only——

Distinction  
on be-  
tween the  
Clergy's  
Meeting  
Synodical-  
ly, and as an  
House.

The *Nature and Design* of the *Schedule* will yet better be understood, if we consider a Distinction between the Clergy's meeting *Synodically*, and, as an *House*; which terms are, when strictly taken, very different from each other, however the chief Patron of the Arch-bishop's *Sole Power* comes (whether through Mistake, or Design, he best knows) to confound them. [See p. 79.] The Clergy meet *Synodically*, in the *Proper* sense of that word, on the *Day* of the *Synodick Session* alone; and even *Then* only, when they appear Above, in the *Locus Synodi*, the Room where the Bishops Consultations are manag'd, and the Adjournments by *Schedule* are made; where the *Court of Convocation* is always held, and all Acts of *Synodick Jurisdiction*, or *Authority*, are, in the presence of the Lower Clergy, exercis'd: But they meet, as an *House*, when they assemble *apart*; whether on the *Day of Common Session*, and within the *Hours* of it, or on any other *Days*, or *Hours*, as Occasion shall require; in order to Debate, and Resolve among themselves of such Matters, as are afterwards to be declar'd in *Open Convocation*, and there, by Common Consent of Both Houses, then Present, to be finally Agreed to, Ratify'd, and Publish'd. There are two sorts of Consent Regularly requir'd to every Synodical Act of an English Convocation; a Consent, form'd *Separately* by Each Body, and a Solemn *Publication* of that Consent, when they are joyn'd. The first of these is the Act of the *House*, and *Preparative* only; the Latter is properly the *Synodical Act*, and gives the *Synodick Sanction* to what is done in either House apart.

To Illustrate, and confirm this Distinction, I shall transcribe One Passage at length from the Antient Register of *Chicheley*, where the Acts of a Convocation, held Oct. 30. 1419, say, that the Arch-bishop on that Day Declar'd the Causes, for which the Council was call'd. *Super quibus idem Reverendissimus Pater assignavit*

assignavit Decanis, Archidiaconis, & Cleri Procuratoribus, quòd recederent in Domum suam solitam, & quòd ibidem de & super Materiis prædictis tractarent & communicarent, ad finem, quòd, habitâ Deliberatione de & super præmissis, ad Dei laudem, Auctoritate Concilii Finaliter Concludi posset, & Concorditer Ordinari. Unde ipsi statim, ut eis fuerat assignatum, recesserunt de Domo Capitulari prædictâ, præfatis Reverendissimo Patre, Confratribus suis Coepiscopis, ac Abbatibus, & Prioribus Provincia sue remanentibus, & infimul tractantibus de & super materiis antedictis. Et post modicum temporis Clerus reversus est in Domum Capitularem prædictam, Habitâque aliquali Communicatione cum Prælatiis, Ordinatum fuit Communi Assensu, &c. fol. 18.

It is possible that these Forms may, through Hast, or Neglect, have been sometimes overlook'd: but 'tis manifest, that this is the Regular Way of Proceeding in Convocation, and is built on the Fundamental Constitution of it, as it is a Synod, consisting of Two Houses, which have mutual Negatives upon each other. Tho' therefore whatever is resolv'd on by the Lower Clergy, in their Own House, from the Day of the Synod's Meeting to that of it's Dissolution, may, in a Looser Sense, be said to be done in Convocation; [i. e. within the Time, wherein the Convocation subsists, either by Sessions, or Adjournments;] yet the True Notion of their Synodical Meeting and Acting is, when they Meet and Act together with the Bishops, in the Convocation-Chamber, if I may so speak; or, as I may certainly speak, in FULL SYNOD, or CONVOCATION; since the Records of it have so spoken before me. For thus, I find, an Instrument, fram'd upon a Synodick Resolution, Ult<sup>o</sup>. Martii, 1534. runs. *IN DOMO CAPITULARI Eccl. Cath. D. Pauli, &c. REVERENDISSIMO Thoma, &c. PRELATISQUE, & CLERO totius Prov. Cant. PLENAM CONVOCATIONEM, SIVE SACRAM SYNODUM PROVINCIALEM CANT. PROV. TUNC ET IBIDEM FACIENTIBUS; dictus Reverendissimus—quandam Questionem tenoris subsequentis, in Scriptis iisdem Prælatiis & Clero respectivè tradidit; jussitque, voluit, & mandavit, quatenus Prælati & Clerus prædicti, de & super veritate ejusdem Questionis tractarent, & quid de & super eadem sentirent, sibi referrent. Eisdemque die & loco dicti Prælati & Clerus PLENAM CONVOCATIONEM sive SACRAM SYNODUM PROVINCIALEM, ut præmittitur, FACIENTES, præmissis inter illos diligenti & maturo Tractatu, coram eodem Reverendissimo—COMPARUERUNT, atque se sentire [so and so] eidem Reverendissimo—RETULERUNT, AFFIRMARUNT, atque—expresse DECLARARUNT, &c. I have the rather transcrib'd this Instrument thus largely, because*



it belongs to a Convocation, in which the *Schedule* is first certainly known to have been practis'd, and the Acts of which clearly inform us, that the Resolution here mention'd was first taken by either House apart, and then *declar'd* and testify'd in FULL CONVOCATION, i. e. in the Common Assembly of Both Houses, where the *Synodical Consent*, and *Sanction* was to be given, to what had before been *Separately* agreed on.

This Distinction  
copy'd  
from the  
Parliament

And in all this, as in every thing else almost, the *Convocation* only Copy'd the *Usages*, and *Language* of *Parliament*: from the Elder Records of which we learn, that, when the *Commons* appear'd before the King, at the Barr of the Lords, they are spoken of as *Coming in to Parliament*, and the Petitions they then prefer'd are said to be *brought into Parliament*; and whatever was then transacted in the Presence of All, is mention'd as done, *en plein Parlement*, in Contradistinction to what either House *Separately* did; though *that* it self also is said sometimes, under a Larger Application of the word, to be done, *in Parliament*. The Lord's House is styl'd the *Parliament Chamber*, and the *Parliament*, there always said to be *Adjourn'd*; and even the Days of the *Parliaments* Sitting were antiently number'd by the *Adjournments* of that House; so that, when any thing is said to have been done on the 2d, 3d, or 4th, day of *Parliament*, the meaning is, that it was done on the 2d, 3d, or 4th, day, in which the House of Lords sat. The Reason of all which Phrases is, that the *Parliament*, strictly speaking, is then, and there only said to be when and where the several States of it appear together before the King; according to the Tenor of their Writs of Summons—*Quoddam PARLIAMENTUM teneri ordinavimus, & ibidem Vobiscum, &c. COLLOQUIUM habere & TRACTATUM*—'Tis the Common Parley of the King with his Subjects, that, in Propriety of Speech, makes the *Parliament*, and therefore the Place of that *Common Parlance* was call'd, the *Parliament Chamber*; and *there* all the States still meet before the King, upon the Passing of any Bill; which receives it's Final *Sanction* from the *Crown*, and it's *Authoritative Stamp* from the *Parliament*, only upon such a Conjunction.

The Application of what hath been said to the Manner of *Adjourning* by *Schedule*, is plain: It may be allowed, that That Instrument adjourns the Day of the *Synodick Session*, and consequently the *Synodic Meeting* of the Lower Clergy, with the Bishops; which can only be on the Day prefix'd by the Bishops themselves, and in the Room where the Upper House sits; and where therefore the *Synod* [i. e. the *Synodical Assembly* of both Houses] being *held* always, may not improperly be said to be *Adjourn'd*.

journal'd. But the Schedule doth not operate any ways on the Lower Clergy, as an *House*: for, as such, they meet and act preparatively to, and apart from the Common Synodical Assembly; and cannot, but by their *Own Consent* intervening, be in *that* Capacity adjourn'd. It *directly* dismisses the Upper House alone, and the *Synod* only by *Consequence*; as it cuts off all *Synodical Correspondence*, and *Business*, properly so call'd, and leaves the Lower House to act by it self, till the Day and Hour of the Common Session returns.

Upon the whole, the Nature and Design of the *Schedule*, is, to determine the Time, at which the *Present* Synodick Session is to *End*, and the *Next* is to be held: but the Adjournment made by it no more affects the Lower Clergy, as a separate House, than it would affect a *Committee* of either House of Convocation; which, when once appointed, adjourns it self, without being Controll'd any ways by the Adjournments of that Body to which it belongs: and what a *Committee* can do, an *House* can certainly do, notwithstanding the *Schedule*. For a *Committee* hath no Power, but what it receives, by *Deputation* from the *House*; which must therefore have all that Power *in it self*, that it can *Delegate* to *Another*.

Thus much, to *Explain* the Nature and Design of the *Schedule*. The *Proof* of which Explication will be set in a Clearer and Fuller Light, as we proceed further on, in the several Branches of the Argument, which I have mark'd out; and particularly after we have, in the

III<sup>d</sup>. place, made a few Reflections on the *Tenor* and *Form* of that Instrument, and on some Remarkable *Phrases* contain'd in it. There are *Four* things, on this Head, that deserve observation; in whose *Name* the *Schedule* runs; to what *Place* it precisely adjourns; and what Expressions are us'd in it, to *Continue* the *Synod*, and all *Synodical Business*, strictly so call'd.

The *Tenor* and *Form* of the *Schedule*, consider'd.

As to the First of these, we may observe, that the *Schedule* runs in the *Arch-bishop's Name* alone, and mentions no *Other Authority* whatsoever, as concern'd in it. And yet it is Manifest, beyond a Denial, from the Compleat upper House Registers of 1562, 1640, and 1661, &c. (not to mention Latter Journals) that the Arch-bishop cannot Decree an Adjournment, or read the *Schedule* which contains that Decree, without the *Previous Consent* Agree of his *Brethren*, if present; the Majority of the Bishops must first upon the *Time* to which the *Continuation* is to be made, e're his *Grace* is at Liberty to *Pronounce* it. From whence I argue, that the Reading of the *Schedule* is only a *Formal Declaration* of an House-Act, by the Chief Member who presides there, and by

It's running in the Arch-Bp's Name alone, no Proof, that it issues by His sole Authority.

whom all Other Resolutions, there taken, are always, as formally declar'd. It *expresseth* not the *Consent* of the *Bishops*, but *supposeth* it; as the Adjournment made by the Chancellor in the House of Lords, implys a previous Determination of that House, tho' it runs in such a Style, as if the Adjournment was made by the Chancellor's Authority only: *Dominus Cancellarius continuavit præsens Parliamentum usque ad* such a day. Altho' the Schedule therefore runs in the Arch-bishop's Name alone, it can no more from thence be inferr'd, that the Consent of the *Lower*, than that the Consent of the *Upper* House of Convocation is unnecessary, e're the Adjournment contain'd in it, can operate upon them. The Schedule, we see, is equally silent, as to either of these Consents: and yet One of them, we are sure, always intervenes; and therefore from the Style of it, nothing can be Concluded to the Prejudice of the other.

All Instruments fram'd upon *Synodic Grants*, or *Resolutions* of any kind, All *Judicial Sentences*, and *Letters of Protection*, ran in the *Arch-Bishop's Name* only, and were put under his Seal; in like manner as the *Synodical Epistles* were antiently sign'd by the *Metropolitan*: But the *Grants*, *Resolutions*, *Sentences*, and *Protections*, notify'd in these *Instruments*, and *Forms*, sprung from the Authority of the Body; and so do the *Adjournments*, contain'd in the *Schedule*; They are made by either House apart, and solemnly declar'd by the Arch-Bishop, in this *Instrument*, which affects not the *Bishops*, or *Lower Clergy* before they have severally Consented to them. There is a *Previous Consent* of the *Upper House*, before the Schedule can be pronounc'd in the Arch-bishop's Name; and an *After-Consent* of the *Lower House* (when their Business is at an End) before it can bind them. When I say an *After-Consent* to the Adjournment made in the Schedule, I speak upon a Supposition, that the Adjournment there made *directly* includes the *Lower House* as well as the *Upper*; which yet I am far from allowing. But suppose it did, yet that Adjournment, thus solemnly declar'd by the Arch-bishop above, might not (I say) take place below, till the Clergy had agreed to it. For in like manner the Arch-bishop put his Seal to the *Instruments*, which notify'd the *Grants* of *Subsidies* from the *Spirituality* to the Crown; and the Clergy, after the Grant was thus Seal'd, gave their *Final, Synodick* Consent to it. For Instance Feb. 24. 1562. The Records of the *Upper House* say, that the Arch-bishop and Bishops call'd up the Prolocutor and Clergy, *Et coram eis legi fecerunt Librum de Subsidio Domine nostræ Regine concessio—in Pergameno conscriptum, ac sigillo dicti Reverendissimi Patris sigillatum. Cui quidem Libra sic* per



*perfecto, ac omnibus & singulis Concessionibus, Conditionibus, & Provisionibus in eodem mentionatis—dictus Clerus Inferioris Domus Consensum & Assensum suos unanimiter adhibuerunt.* It must be upon a *Presum'd* Consent of the Lower House, that the Arch-bishop set his Seal previously to this Grant; and, upon a Like *Presum'd* Consent, he may be suppos'd in his own Name to draw up a Formal Instrument of Adjournment; which yet is not to *Oblige* the Clergy, till they themselves have *Agreed* to it.

Upon the Whole, the Reflection advanc'd on the *Form* of the Schedule [as carrying in it the mention of the *Arch-bishop's Name* and *Authority* alone] is so far from weakning the Interest that the Lower Clergy have in Adjournments, that it rather confirms it: for it shews, that a *Consent* may be *Necessary*, which is not *express'd* in that Form; since nothing is there said of the *Bishops* Consent, which yet, we are sure, is absolutely requisite to every Upper-House-Adjournment. And what determines not *Them*, who are *Present*, when and where it is read, till they themselves have concurr'd to it, can much less, without a like Concurrence, determine a *Distant* Body, who never hear it read, and to whom the Instrument it self, or any Copy of it, hath never, till of late Days, been us'd to be *Transmitted*: which I here assert only, and shall hereafter manifestly prove.

It will add some further Strength to this way of reasoning, to shew, that even when the Forms of Continuation (whether *with*, or *without* a Schedule) generally ran in the *Arch-bishop's Name* alone, yet Other Forms, practis'd about the same time, and in the same Synods, prove him to have Continu'd by Consent. The Phrase, *Cum Consensu Fratrum*, which I have mention'd already, and which perpetually recurs in the Books of the Upper House, evinces this beyond a Dispute; and gives us an *Authentick Interpretation* of the Schedule, as far as the *Bishops* are concern'd in it.

In the Regitter of 1661, &c. lately discover'd, the Expression sometimes is *Domini Continuarunt*; tho' those Acts were drawn by a very Accurate Hand, and with the utmost Formality.

In the Convocation of 1540, which null'd *Ann* of Cleve's Adjourn- Marriage, the Author of the *Power of the Lower House*, &c. for- ments in merly observ'd, that the Adjournments are generally said to have been made, *De Consensu totius Synodi*. [p. 4. c. 2.] The Asserter of the Arch-bishop's Sole Power adds, that None of them run o- therwise [p. 21.] But there he is deceiv'd: for One of them (that of July 7.) speaks of the *Archbishop* alone, as Continuing, without any such Consent: *Deinde continuata fuit hujusmodi Synodus tunc ibidem per dictum Reverendissimum Cant. Arch. usque* of Anne of Cleve, made by Com- mon Con- sent; not accounted for by the Asserter.

*ad & inter horas — Crastina diei — ac in Locum prædictum. Ac moniti fuerunt per eundem Reverendissimum Omnes Prælati & Clerus tunc ibidem præsentibus ad — interessendum, &c.* Which shews, that these Phrases are Equivalent, and that a Synodical Consent is to be Understood, even where it is not Express'd.

The *Asserter*, I mention'd, raises Two Objections against the Validity of these Instances: One, that the Clergy of York Province sat with those of Canterbury in this Synod; and the Adjournments therefore were necessarily to be made by Common Consent, because the Arch-bishop of Canterbury had no Jurisdiction over those of a Foreign Province: The Other, that *the Clergy were joyn'd in the same Commission, and so had a Concurrent Power with their Metropolitans and Bishops, in every Act throughout the whole Proceeding.* [*ibid*] But neither of these Objections are Material. For, as to the first, this Author should have remembered, that the Arch-bishop of Canterbury is *Primate and Metropolitan of all England*, and by vertue of that Character, when the Two Provinces are together, presides, over Both of them, and exercises the same Acts of Authority, as he doth at the Head of his Own Clergy. And therefore, when in 1661, and in the following Years the Arch-bishop and Bishops of York Prov. sat in the Upper House of the Convocation at *Westminster*, they were no more Exempt from the Arch-bishops Direction, where it regularly had place, than the Suffragans of his Own Province; they were equally appointed of Committees, and Commission'd to Adjourn in his stead. And had the Lower Clergy of that Province been there also, they would not have enjoy'd a greater Privilege, in this respect, than their Bishops.

The Commission is yet a Weaker Pretence: for every Licens'd Convocation acts by a *Formal Commission* from the Crown; which impowers them only to proceed in such and such Instances, but prescribes no New Rules to them, as to the Methods of Acting and Adjourning. Besides, if these *Continuations were made by a Joynt Consent*, because *the Clergy, in virtue of that Commission, had a Concurrent Power with the Bishops, in every Act throughout the Whole Proceeding*; then, from a Concurrent Power in Other Synodick Acts, a Concurrent Power in Continuing may be prov'd: and thus the Necessary share which the Clergy, by the Constitution, have in all Convocation business, will prove their share also in the Act of Adjourning: which is an Inference that this Author very Zealously (tho, I think, with no Color of Reason) denies. \*The true Account of expressing the Adjournments in this Process, as made by Common Consent, is, because the Two Houses acted together in it; which was owing, not to their Commission; but

but to the Necessity of dispatch, which they were under, the Parliament waiting for their Decision, in order to found a Statute upon it. Accordingly, this matter was Propos'd in Convocation, handled, and judg'd there, and their Judgment of it Certify'd to the King under a Formal Instrument *Subscrib'd* by all the Members, in the Compass of Three days Time; which it could hardly have been, if the Two Houses had acted asunder. And for this reason chiefly it is, that we hear so little of Adjournments by *Common Consent*, in the Later Records of the Convocation of this Province; because the Clergy being always Absent from the Continuations made Above, and acting as separately in this, as in any Other Synodick Resolution; consequently, the Form of Adjournment, enter'd in the Upper House Books, expresses the Consent *only* of Those who are present when it is declar'd; and that Consent is afterwards made Full and Entire, when the Clergy Adjourn themselves to the same Time below, Sooner, or Later, as their Occasions require.

But in the Records of *York* Province (where the Clergy are often present when the Synod is Adjourn'd) there are Foot-steps also left, of a Common Consent given to such Synodick Adjournments. *Tonstall's Proxy*, \* enter'd in the Acts of a Convocation held A. D. 1531. is a clear Evidence, that though the Prorogations of that Assembly run all in the Dean and Chapter's Name (the Arch-bishoprick being Vacant) yet they were made, at the Previous Consent of the Bishops; and that the Lower Clergy also concurr'd, the same Acts Witness, where they immediately add, that LIKE Letters of Proxy were enter'd by several of them. *SIMILITER etiam Mag. Bernardus Townley, substituit*

Proofs of Adjournment by Common Consent in the Records of *York* Province.

\* See an account of it before, P. 15.

*Mag. Thomam Magnes, & Mag. &c. in omnibus suis causis, conjunctim & divisim. Ac etiam Magister Robertus Hyndmere, Procurator Cleri Archidiaconatus Dunelm. substituit pro eisdem Magistrum Edw. Kellet, decretorum Doctorem, & Magistrum Cuthbertum Marshall, S. T. P. conj. & div. SIMILI MODO Mag. Kynsbery substituit in omnibus suis Causis Mag. Joh. Sheffield, & Mag. Thomam Tashe. Ac Dominus Prior de . . . . . constituit Reverendos Viros Priorem de Kirkham, &c. in suos Procuratores conj. & div. Etiam Dominus Abbas de Meuse CUM SIMILI POTESTATE constituit Venerabiles Viros Mag. Joh. Sheffield, & Mag. Thomam Tashe in suos Procuratores conj. & div.*

Nor are the Later Acts without Instances of this kind: for Feb. 5. 1562. they say, *Habito Tractatu perdictos Praesidentes sive Commissarios, & ceteros Comparentes, & interesse debentes—dictus Johannes Rookeby, de Consensu dictor Collegar' suor' & ceteror'*



*The Case of the Schedule stated.*

cæteror' Comparentium continuavit hanc Convocationem sive Synodum Provinciale, &c. to the Afternoon. And again, 12<sup>o</sup> Martii 1605, *Johannes Bristol Episcopus, Præsides hujusmodi Convocationis, de & cum expressis Consensu & Assensu cæterorum tunc Congregatorum (post—nonnulla in hujusmodi Synodo sive Convocatione solenniter tractata) Continuavit & Prorogavit eandem Convocationem in dies respectiva Luna, &c.*

What more of this Nature there may be in those Acts, I cannot be positive: These Two Passages I owe to some short Notes, formerly taken from thence, and now lying before me.

And in  
those of  
the Irish  
Convoca-  
tion.

The Records of the *Irish* Convocations are also very Instru-  
tive on this Head. There, the Four Provinces sit together, in  
One Synod; and the Arch-bishop of *Armagh*, as the *Præsides Natus*  
of the Convocation, and the *Primate and Metropolitane of All*  
*Ireland* (so he is in the Acts styl'd) presides. The Adjournments  
therefore often run in *his* Name, and Express *his* Authority Alone,  
when he is present; *Reverendissimus—Archiepiscopus Arma-*  
*chanus continuavit hanc Synodum usque ad, &c.* Or, when some  
Archbishop, or Bishop, *Commission'd* by him, doth it, 'tis said,  
that such, or such an One, *Loco, Vice, & Nomine, & ex Manda-*  
*to [or, Loco, & Autoritate] Reverendissimi &c. continuavit*  
*dictam Synodum, &c.* And yet, plain it is that all these Peremp-  
tory Forms of Adjournment which seem to lodge the Power of it  
solely in the Primate, were meerly *declarative* of an Act of the  
Upper House; since the Phrase of Adjournment is more fre-  
quently Enter'd in this, or the like manner—*Dominus Præsides,*  
*cæterique Domini Prorogarunt hanc Sanctam Synodum, &c.* Or  
*Continuarunt dicti Reverendissimi, & Reverendi Patres hanc Sy-*  
*nodum, &c.* Or thus, *Illustrissimus Præsides, cæterique Reverendis-*  
*simi & Reverendi Patres Archiepiscopi, & Episcopi jam congre-*  
*gati, ex certis Causis & Considerationibus animum suum in hac*  
*parte specialiter moventibus Sessionem istam hujusmodi sacre Syno-*  
*di—unanimi eorum Consensu prorogarunt &c.* The Acts of  
the *Irish* Convocations held A. D. 1640, and 1661, &c. afford  
us frequent Instances of such Forms as these, and together  
with them a sure and solid Proof, that Continuations may run in the  
Name of a *Single* Person, and yet Spring from the Joynt Consent  
and Authority of *Many*. And therefore (to apply this Digression  
to the Point which occasion'd it) though the *Schedule* here at  
home carries the Arch-bishop of *Canterbury's* Name only, yet  
can it not from thence be inferr'd, that the *Adjournment* made by  
it, is an Act of his *Graces* Sole Authority; or affects either House  
of Convocation, till They themselves have Consented to it.

A Second thing observable in the Form of the Schedule, is, the Place, to which the Adjournment is there directed; 'tis, *in hunc Locum*, always; And what Particular Place or Room is designed by these words, the Instrument it self, and the Concurrent Act of the Day, will clearly inform us. The Notaries Attestation, at the Bottom of All the Modern Schedules, mentions the very Room, in which it was read, and subscrib'd; and therefore the words, *in hunc Locum*, in the Body of the Schedule, must mean the same Individual Room, that is expressed in the Attestation annexed. The Act of the Day begins likewise with naming the particular Place where the Bishops sit, and after an Account of what was done in that Place, and that alone, the Arch-bishop is said to continue, *in hunc Locum*, that is, to the Room, where he is then sitting, and where every thing, enter'd in the Act of that Day, was done. When the whole Synod is translated from One Church to another (for instance, from Paul's to Westminster, or, *vice versâ*) the Schedule, or the Act, or Both, do generally, mention the very Room to, and from which the Bishops adjourn: so that nothing can be more indisputably clear than that the words, *in hunc Locum*, wherever they occur in this Instrument, are determin'd to signify that particular Apartment, or Room, in which the Bishops assemble: and it is therefore a very great Instance of Disingenuity in the Asserter of the Arch-Bishop's sole Power, †† Pag. 70. to pretend to put any other Construction upon these Words, and to colour his forc'd Interpretation of them by a Passage from the Narrative\* which, when carefully examin'd, will be found far \* Pag. 26. from affirming that sense of this Phrase for which he cites it.

|| The Use I make of this Account is Double. And

|| The Narrative [p.

26, 27.] argues only, upon a Supposition, that the words, *in hunc Locum*, or, *in hoc Loco*, were pronounced by the Prolocutor, out of the Arch-bishop's Schedule; in which case, it says, the Lower House might have understood that *Locus* to be some Common Place, wherein each House had a Room of their Own. But this Supposition, and consequently the Solution of it, the Narrative, in the same Place, expressly disallows; positively asserting, that in the Adjournments of 1586, and 1588, which almost all conclude, *in hoc Loco*, the Room spoken of could be no other than that in which it was spoken.

1<sup>st</sup>. If the Words, *in hunc Locum*, mean the Bishop's Room, it follows, that whoever are adjourn'd by the Schedule, when publish'd in the Upper House, are to meet in that House, at the Time prefix'd by it. And yet it is demonstrable from the perpetual series of the Upper House Acts, for near 200 years last past, (to speak at the Lowest) \* that the Inferior Clergy have never

\* I say, to speak at the Lowest; for there are

Evident Proofs, that 300 years ago, the Clergy met apart from the Bishops, in their Own House, at the Opening of the several Sessions. To this purpose, I shall transcribe a very Material Passage from the Acts of the Conv. of Jul. 23. 1408, enter'd in Arch-bp. Arundel's

Register; and shall be so much the fuller in my Transcript of it, because it shews us, that Synodical Matters were, even at that time, transacted between the Two Houses, much after the same manner, as they are at this day. Jul. 24. The Arch-Bishop having open'd the Causes of the Conv. Clero vero Inferiori à præfatis Majoribus Prælati seorsum separato, & in scholis Theologie sub Domo Capitulari—juxta assignationem Archiepiscopi convenienti more solito, iidem Venerabiles Patres Archiepiscopus Cant. Episcopi, Abbates, & Priores supradicti tunc ibidem personaliter præsentibus—tandem 6 Episcopos ac 12 Abbates & Priores ex seipsis ibidem præsentibus decreverunt fore eligendos, prout tunc incontinenti ibidem electi fuerunt & nominati, ad vidend' disputand' & inveniend' Vias & Media—ipsaque sic inventa—& bene digesta aliis Prælati supradictis in communi seriis exponend' & referend'.—Similique modo Clerus Inferior in Loco sibi, ut præmittitur, deputato constitutus, post nonnullos & varios Tractatus de & super Materiâ sive causâ Convocationis superius descriptâ, decrevit ex se Eligendas 24 Personas Probiores & Peritiores, prout statim elegerunt, ad consimiliter pro parte ejusdem Cleri Inferioris faciend' sicut præfati Prælati, ut præmittitur, electi facere assignantur. After which they Notify this Election Above, and the Arch-bishop adjourns to the 25th. Quâ die adveniente, præfatus Rev. Pater cum suis suffraganeis—Abbates, & Priores, ac Clerus horâ eis præfixâ, in Locis suis supradictis convenientes—invicem tractarunt, communicarunt, & disputarunt. fol. 72, 73. And so, in several succeeding Sessions, they are said in Locis suis supradictis, or, sepeditis, convenire, or, tractare: particularly, 29 Jul. Horâ 8. diè Dominicæ—Prælati Majores per se, Clerus etiam Inferior per se in Loca sua sepedita invicem convenerunt, & postea Media & Vias varia per personas prædictas, ad hoc electas, UTRIQUE SOCIETATI IN LOCIS SUIIS Expositas & detectas ad finem supradictum tendentes tam præfati Majores Prælati quàm etiam Ipsi de Clero Inferiori, quamvis Loco distantes, Deo tamen inspirante, Opinione concordēs, hanc quæ sequitur inferius Viam elegerunt: quam sic in Clero Inferiori recitari. . . & electam Ipsi de Clero eodem, nomine & vice suis, per Ven. Virum Mag. Henr. Ware, dicto venerabili Catui Majorum Prælator' [expniti & referri fecerunt]. I foresee, it may be objected here, that these Early Instances of the Clergy's Opening the Session in their Own House, are a Prejudice to their Present Claim of Meeting there by their Own Act; because Then, and for some time after, the Clergy often assisted personally at the Prorogations made above; and must therefore have met, the next Session, apart in their Own House, as the Higher Prelates met in theirs, by virtue of the same Common Act of Adjournment. But this difficulty vanishes, when it is consider'd, that the Ancient Entrys of those Adjournments which dismiss'd Both Houses of Convocation together, us'd to mention the Time only, but not the particular Place, or Room, at which the Conv. was next to Assemble; and, consequently, the Clergy, being determin'd only, in point of Time, by the Act of Adjournment made Above, in their Presence, were left at Liberty to meet Originally in their Own Proper Place, according to the Custom of Convocation. Afterwards, when the Two Houses were us'd to be continu'd Separately, the Forms of Adjourning the Upper House, specifid the very Room at which they were next to Assemble; by which Forms therefore if the Lower House had been equally Adjourn'd, they must also have met in the same Place, at the Opening of the next Session; and their Meeting Apart, in their Own House, at such times, must consequently have been owing to their Own Act of Adjournment below, and could not have sprung from the Arch-Bishop's Continuations: which, being strictly Local, had they included and dismissed the Lower Clergy, would certainly have oblig'd them to meet, as well at the same Place, as Time, at which the Upper House assembled.

once in All this time, met, at the opening of an Ordinary Session, in the Bishop's Room, after their Prolocutor was approv'd; till the Late Inroachments on their Rights were introduc'd in this, and in several Other Instances. The Plain Inference from which Practise is, that they are not directly included in the Schedule, or Adjourn'd by it. For if they were, their Obligation would be Equal of Assembling at the Place, as at the Time, it prescribes. But because they Assemble, at every Session, not by the Upper House



House Adjournment, but by their *Own*; therefore they meet always in their Own House, *where*, and *to which* they Adjourn'd themselves: as is manifest from the Lower House Books of 1586, and 1588; the Method of which, is, in this respect, the same as that of the Bishops Registers. For the *Front*, or *Title* of most of the Acts in those Books expresses the Room, where, whatever is afterwards entred on that day, is said to have been done: *In Inferiori Domo Convocationis*, or, *In quodam Sacello, ex parte Australi*, or, *in parte Boreali &c. in presentia Mei Notarii Publici*. Then, the Business of the Day follows, if there be any; and after that, the Prolocutor's Adjournment *in hoc Loco*, or *in hunc Locum*, that is, in, and to the Room, where they are Sitting, which is mention'd in the *Title* of the Act, and which they Meet in always at the opening of the Next Session; and which is there sometimes styl'd *Locus solitus praeassignatus*, viz. the Place specify'd in the Preceeding Form of Adjournment: so that each House adjourns *in hunc Locum*, \* and by this Phrase severally means that Room where Each sits apart from the other; and where therefore they severally meet (and can meet only) by separate Acts of Adjournment. However, I allow, in the

\* In the Book of 1586, and 1588, the Form generally is, that the

Prolocutor continu'd *in hoc Loco* [not, *in hunc Locum*] which seems to express the Continuation of the Lower Clergy, as made not only *to*, but *in the very place*, where it is pronounc'd; and therefore to imply, that they had not been already actually adjourn'd by what the Arch-bishop, in *Another Place*, had done.

\* 2d. Place, That the Adjournment by the Words, *in hunc Locum*, in the Schedule, may, in some Sense, be said to affect the Lower House; as it is a signification of the *Locus Synodi*, the Proper Place of the Full Synodical Assembly: for that is always the Room where the Bishops sit. And there the Clergy are bound to attend, at every Session; for the Dispatch of Synodical Business, if need so require. Thus far, and no farther, they are concern'd in the Phrase, as it lies in the Schedule. It may Occasionally Oblige them to appear in the Synodick Place, mark'd out by it, during the Continuance of the Common Session; but it affects neither the Opening, nor Conclusion of their Own Session below; which is done always, by vertue of their Own, *in hunc Locum*, and by an Act of their Own Intrinsick Authority. A

In what manner the Schedule expresses the Synod, there said to be Adjourn'd.

Third Thing, which deserves a Remark in the Schedule, is, the Manner of Expressing the Synod, there said to be adjourn'd. In Mr. Mundy's Forms \* [the First of the kind we have remaining] the

\* The Eldest Schedules are written in the Hand

of some Clerk of his; but always fill'd up, or Attested at least, by Mr. Mundy himself; to whom therefore the Mistakes of 'em are justly imputed by the Author of P. L. H. Nor is that Imputation any ways taken off, by what the Asserter of the Arch-bishop's Sole Power urges,

† The Act  
Ends al-  
ways—  
proit in  
Schedulâ—  
cujus Tenor  
sequitur.

Words generally are, *Præsentem Sacram Synodum, five Convocationem PRÆLATORUM & CLERI Cant. Prov.* But this was certainly an Error of his, because the Upper House Act which, in this part of it, was nicely adjusted to the Words of the Schedule, and expressly referr's to it, † mentions only *hujusmodi Convocatio, five Sacra Synodus Provincialis*, or the like, but never, that I remember, once Enumerates the *Constituent Parts* of the Synod, upon an Ordinary Adjournment.

The Journals of 1562, 1640, and 1661, &c. are One continu'd Proof of this Observation, particularly the Book of 1640; where, on the 24th of Apr. 1640, the Arch-bp. is said to make Two Commissioners, *ad interessend' & præsidend' Vice, Loco, & Authoritate suis in Sacra Synodo five Convocatione Prælator' & Cleri Cant. Prov.*

—For the *Præsidency*, imply'd a Power over both Houses, or the *Whole Synod*, properly so call'd; and the several parts of it therefore are distinctly nam'd in the Commission. But when these Substitutes are afterwards impower'd to *prorogue* for the Arch-bishop, the Phrase remarkably varies: for then it runs only —*nec non ad —hujusmodi Convocationem, five Sacram Synodum Provincialem——continuand' & prorogand'*. Which Change of Expression seems to have been purposely made, in order to adjust the Commission, in this Branch of it, to the style of the Upper House Act, and Schedule of Adjournment. And the Schedules, preserv'd in the Book of York-Province, are exactly of the same Tenor, and Form; mentioning the *Synod* at large only, without Enumerating the *Parts* of it. These words therefore must have got into our Instruments here at home, through the Unskillfulness of Mr. Mundy; who came not into the Upper House Service, till after the Fire had destroy'd all the Old Schedules, and may be well suppos'd at a Loss for the Form of them.

The Absurdity of Mr. Mundy's calling the Arch-bishop, *Præsident*, and *Locum tenens*.

\* P. L. H. p. 19. c. i.  
† P. 41.  
‡ Ibid.

Were this the Only Instance of his want of skill in drawing such Forms, there might be room to justify him: but they are all over full of plain Mistakes, which shew him to have been totally unacquainted with the Tenor, and true Meaning of them. It has been observed already, \* that he there styles the Arch-bishop very absurdly, *Præsident five Locum tenens*. As to the Latter of these Terms, the Defender of his Grace's Sole Power calls it a *slip of his Pen* † but it is such a slip, as his Pen hath committed, in an hundred Successive Schedules. And whatever that Writer hath said, ‡ to Excuse the Former, is all Delusion. For Nothing can be more certain, than that the Latin Substantive, *Præsident*, is a Term of Art, appropriated to One, who presides, not by an Original Right, but

but in the Room of another. It signifies much the same as Deputy, or Commissary; and therefore is frequently joyn'd with these words, as of Equivalent Meaning. \* In the Acts of 1460—*Commissarium sive Præsidentem dictæ Convocationis*—which is the Style also of the Arch-Bishop's Commission, at that time Issuing. [See it. Boucher. fol. 15. a.] 13 Nov. 1554. *Episcopus London deputatus Commissarius, sive Præsidentis ritè & legitime constitutus*—† and so, in numberless other Instances. As for those which that Writer produces || they are Proofs only of his mistaking the Language of the Registers, not of that sense of the Word he contends for. For at first sight it appears that *Præsidentis*, is us'd in several of them (and, I believe, upon Examination, it would be found, that it is so us'd in All) as a Participle, not as a Term of Art: And the strength of his Citations therefore, consists in the Capital P, which he affixes to the Word, as often as it recurs in 'em. His Citing Dr. A's Dedication to the Arch-bishop, under the style of *President*, is Trifling: for the Writer he was engag'd with, had allow'd \* the English Use of the Word, and deny'd the Application of it only in Latin; the Language, in which the Schedules [the subject of their Debate] are fram'd. Even the English Use of the Word is no Older than the Convocation of 1640, when the Title of the Canons of 1603 was Copy'd, in haste, into those of that Year; and the word *President*, which properly belong'd to the Bishop of London, presiding in 1603, was improperly apply'd to the Arch-bishop himself. From that time it hath obtain'd, and hath in the Late Controversie been made use of, as a Title, that implis mighty Powers and Prerogatives; whereas, in Truth, it is a Term rather of Diminution, than of Honour, to his Grace; as it would be to the Queen to be styl'd *President* of the Council. But enough of this—

Another Mark of Mr. Mundy's Unskilfulness is, that he all along Continues *in statu quo nunc sunt, Certificatoria introducenda, & non introducenda* [an Idle Tautology] even when his Schedules are fram'd upon a Royal Writ of Prorogation; which is so Absurd an Application of the Clause, as shews, that he no ways understood the meaning of it.

It is no wonder therefore, that the Phrase [*Prelatorum & Cleri Prov. Cant.*] crept into his Instruments, together with the Other Faults, which abound there; and That being set aside, the

\* 1428. *Quia Dominum occupari oportebat in crastino—pro die illo ordinavit & deputavit Præsidentes in Convocatione hujusmodi loco sui—Præfatis Dominis—Præsidentibus, ut præferatur, Deputatis—Chicheley. fol. 71. 6. part 2. Dominus quæties ipsum—absesse contigerit, ordinavit & deputavit Præsidentes loco sui. Ibid. fol. 72. a.*

† 5 Feb. 1562. *Habito Tractatu per dictos Præsidentes, sive Commissarios, & ceteros Comparantes—[Act. Prov. Ebor.] 7 Jun. 1661. Præsidentis sive Commissarius—Præsidenti sive Locum tenenti* [in the Journal of the U. H. of this Prov.]

|| Ibid.

\* P. L. H. p. 18. c. 1.

And of his Continuing the Certificatoria, upon a Royal Prorogation.

*presens*



## The Case of the Schedule stated.

*præfens Convocatio, hujusmodi Convocatio, Sacra Synodus*, or the like, there said to be prorogu'd, is easily accounted for. For this is Parallel to the Use of a Like Phrase, in the Journals of the Lords; where the Chancellor is always said to *Continue the Parliament*, tho' he declares the Adjournment of that House only. Not that the Word, *Parliament*, here, Signifies *One Separate House*, as the *Asserter* imagines\* and cites for it the Title of that Officer, who is styl'd *Clericus Parliamentorum*; as if such a Title imply'd him to be *Clerk of Both Houses*, and not rather of *All the Succeeding Parliaments*, when, and wheresoever they are held. But the True Reason of the Phrase is, because (as I have already shewn) the *Parliament*, strictly speaking, assembles always in the Chamber, where the Lords sit, and Adjourn; and so the *Synod* always meets in the *Bishop's Room*; and there therefore it is said to be Continu'd, tho' that Continuation dismisses their Lordships only.

\* Pag. 44.

*Synodus*  
and *Convo-*  
*catio* re-  
strain'd to  
signify *One*  
*House* of  
*Convocati-*  
*on*.

No Man, who is not a stranger to the Language of the *Acts*, can doubt, whether the Words *Synodus*, and *Convocatio*, are not often restrain'd to signify either the *One*, or the *Other House* of *Convocation*, according as they are apply'd. Several Instances of this kind have been produc'd in P. L. H. p. 18. c. 2. The *Asserter* finds some way or other of escaping the Force of most of 'em [p. 34, 35.] but when he comes to account for the Phrase of *Antiq. Britannica*, [where *Synodus Superior*, & *Inferior*, often express the Two Houses of Convocation] he is hard put to for a Reply; and slips it over as a *loose Expression*, that might easily happen in an *Elaborate History*\*: By his Leave, *loose Expressions*, do not often happen in *Elaborate Histories*; nor ought to be easily charged on that History, which was Compil'd by a Writer, better vers'd in *Synodical Records*, and *Forms*, than any Man of his Time. Nor is it any Answer to the Passage† produc'd from Arch-Bishop *Parkers's* Speech, wherewith he solemnly open'd the Convocation of 1572, to say he spake Rhetorically‡. But because these Instances were not drawn from the *Acts* themselves, and so will not be allow'd as *Proofs*: I shall now produce some that *are*, and leave the *Asserter* to try his Skill upon them at his leisure.

\* p. 47.

† *Inferioris*  
*Concilio*, dilecti  
*Fratres*, are  
his words  
to the  
Lower  
Clergy.  
‡ Ibid.

\* In the  
*English Re-*  
*ords*.

In the Convocation 1 Dec. 1411. The Arch-Bishop spake to the *Procuratores Cleri*, if they had any *Grievances* to offer, *quod vellent & deberent*—coram Convocatione Dominorum in dicta Domo Capitulari *seriosius intimare*. [Reg. Arundel. part 2. fol. 22.] i. e. they should lay them before the *Upper House*.

May 10. 1532. *Reverendissimus, post perlectam & Exhibitam Schedulam per Magistrum Fox Eleemosynarium, Continuavit hujusmodi Convocationem ad Capellam. S. Katharinæ infra dictum Monasterium: ad quam Reverendissimus & ceteri Prælati immediate accesserunt.* Here Both Houses read that *Form of Submission*, sent them from the King, together in the Chapter-House; and then the Arch-bishop adjourn'd his *Own House*, which is styl'd *hujusmodi Convocatio*, to the Chappel of S. Catharine, where they read it over again, *by themselves*: as appears plainly enough, from the words of *this Extract*; and yet more evidently from the Account given of the same Session, in another.

"Both Houses being together, *prælegitur una Scheda exhibitæ per Venerabilem Virum D. Edw. Fox Eleemosynarium.*  
 "Quo factò, the Arch-bishop removes the *House, ad Capellam S. Catharinæ prope quoddam Claustrum infra dictum Monasterium,*  
 "and there they read it over to themselves.

In the Book of 1547, this *Memorandum* is enter'd. "Item, in *this Convocation of the Lower House* was consulted of a Petition to be made by this House, &c. And the Act of the first day speaks thus, *Inferior Domus Synodalis Convocationis Cleri Cant.*— 'Tis the *Synodal Convocation of the Clergy* here spoken of, not of the *Prelates and Clergy*; and the Phrase therefore refers to the Lower House alone, without including the Upper.

Apr. ult. 1554. The Lower House Book says that a Member of that House, in *Convocatione celebratâ Termino Michaelis ultimo, in hoc loco*, had disputed against Transubstantiation. This Dispute was entirely manag'd Below; and, for the most part, on *Intermediate Days*, when the *Bishops* were not sitting, as I shall hereafter shew: the *Convocation* therefore, here mention'd, refers to the *Assembly of that House* alone.

And so it doth in the Act of the 5th. of Apr. before, which says, *Quia prædictus Prolocutor non potuit adesse dictæ Convocationi, substituit such and such conj. & div. in Loco suo.* For this *Substitution* was made in the Lower House, the Upper House Journal being Silent concerning it. Nor were these *Substitutes* appointed in order to any Intercourse with the Upper House; for they said Prayers only, and adjourn'd; but never once appear'd above, while the Prolocutor was absent.

16. Sess. 1558. *Comparuerunt* the Prolocutor, and Twenty more, *ac eorum plures intrarunt Domum Convocationis unâ cum Domino Prolocutore; ubi Dominus Prolocutor statim intimavit.* And, 17. Sess. 1588. *Comparuerunt* the Prolocutor, and 31 more; *quorum nonnulli intrarunt Domum Convocationis unâ cum Domino Prolocutore, quibus intimavit, &c.* May 7. Feb. 1588, what

## The Case of the Schedule stated.

is call'd, *Inferior Domus Convocationis*, in One part of the Act, is styl'd *Locus Convocationis*, in another. Thus again, in the Journal of 1661 Sess. 56. The President is inform'd, that the Civilians attend, *Extra Domum Convocationis*, and are commanded by him to give their Opinions in *Domo Convocationis*, which accordingly, they delivered in Writing to the Bishop of London. Can any One doubt, whether the word *Convocatio* here be restrain'd to the Meeting of Either House, apart? or what plainer Comment can we have on the *Hujusmodi Convocatio*, which in the Lower House Acts is every where said to be Adjourn'd? it is the *Convocation of the Higher, or Lower House* that these Expressions mean, as the preceeding *Memorandum* rightly Englishes the Latin Phrase; And as the subsequent Proofs from the Lower Clergy's Journal in 1661, &c. do yet more clearly evince. There we meet with a Multitude of Adjournments, enter'd in this manner; *Continuata est*, or *Prorogata est hæc Convocatio, hæc Synodus*, or *Præsens Convocatio*, to such a Day; *in hunc Locum*, or *in Loco prædicto*. And what the *Hic Locus*, or *Locus prædictus*, there spoken of, is, the Title of every Act shews, which constantly expresses, or refers to, the very Room, where the Lower Clergy were Sitting, when these Continuations were made: from whence it follows, that the *Synod*, or *Convocation*, here said to be Adjourn'd, is to be, and can be, meant of the *Lower House* only: for That Alone is Adjourn'd in, and to the Room, specify'd in the Front of every Act; That alone is dismissed, and reassembles there, by Vertue of this Continuation. And, to cut off all Pretence of a Cavil, some of the Acts, that are more largely extended, explain the *Convocatio*, and *Synodus*, here spoken of, in such a manner, as is not capable of any Evasion. For 21 March 1677. it is said, *Venerabilis Vir, Edwardus Stillington, in Prolocutorem hujus Domus Electus, Admissus, & Confirmatus, à Confessu Superioris Domus huc rediens, post preces per eum factas & finitas, Continuavit præsentem Convocationem in diem Merc. 10. Apr. prox. in hunc Locum*. And again, 17 Apr. 1678, *Fusis & finitis precibus, Dominus Prolocutor Continuavit hanc Synodum in [Ult. Apr.] in hunc locum*. And the First of these Instances is so much the more remarkable, because the Entry of the Adjournment in the Upper House, that Day, [21. March. 1677.] is made, in the very same Words: for there also, the Bishop of London, *Continavit Præsentem Convocationem*. In the One of these Acts, *Præsens Convocatio* signifies the *Upper House*; and in the Other, the *Lower House* only.

In the Records of York Province, the Two Houses do not appear to act so Separately as here; by reason of the Paucity,  
and



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and Absence of the Bishops; and therefore, tho' several Instances might be produc'd from thence, which confirm the same Point; yet, being liable to some little Misconstruction, and Cavil, I choose to wave them.

But the *Irish Acts* are most Express and Full to this purpose; particularly those of 1661: where the Upper House Adjournments always mention the *Synod*, or *Convocation*, as continu'd, and yet mean that *House* alone where the Adjournment is declar'd. For the Truth of this Explication, I humbly take leave to Appeal to the Most Reverend his Grace, my Lord Archbishop of *Tuam*, and to the Right Reverend Bishop *Sheridon*, who are, as far as I can hear, the Only Two surviving Lower House Members of the Last Synod, which sat in that Kingdom. And I have it from Good Hands, that his Grace, and his Lordship, do both punctually remember, that the Lower House, Which sat from 1661 to 1666, never look'd upon themselves as included in, or dismiss'd by the Adjournments made above; but Sat, and Rose, at Discretion, as their Own Business requir'd, without any the least Interposition from their Superiors. Tho' the Primate that then was (Arch-Bishop *Bramhall*) understood the Rights of his *See* as well, and was as careful to maintain them, as any one that ever sat in it.

I would not take the Liberty of this *Appeal*, but in a Cause of the nearest Concern to the Church, and where Truth is likely to suffer by the Want of it. For I find the *Asserter*, excusing himself from *laying any stress on the Living Evidence*, vouch'd to this purpose by the Author of P. L. H. because he was *single* and *unknown* †. And the next Step would naturally be, if no Names should be mention'd, to *deny* it. The Testimony I now appeal to, is neither *Single*, nor *Unknown*; and whether I injure those Venerable Persons, (a) That Writer may easily learn: for both his *Grace*, and his *Lordship* are, as I understand, at this present, in *London*.

† p. 129.  
(a) The  
Asserter ap-  
peals also  
to *Living*  
*Testimonies*  
on his side  
of the  
Question;  
of which

he names *Three* [p. 128.] If he hath dealt with the other Two, as he hath done with the Reverend Dr. *Halton*, I may say, that he has not used them fairly. For he mentions Dr. *Halton*, as *reminbring nothing of separate Adjournments*: whereas, as I am credibly inform'd, all that Worthy Person can recollect concerning the Adjournment of the Two Houses, is, "That when the Upper House thought fit to adjourn themselves, they signify'd their mind to the Lower House, either by sending up for some of their Members, or by sending down a Publick Notary, to signify their Design of Adjournment. Which is what the highest Asserter of the Lower Houses Right will allow to have been constantly practis'd, without imagining, it injures their Claim to *separate Adjournments*."

I know it may be said, that the Primate's Authority in point of Adjournment, must be less in *Ireland* than in *England*, because the Clergy of *several Provinces* sit under him: but that alters not

the Case in the present Article of Debate. For the Arch-bishop's of *Ireland*, when sitting together, have the same Power over the Collective Body of the Clergy, as they have severally in their Respective Provinces: and therefore the Continuation of the Synod Above by *All* the Arch-bishops, [and Bishops], would Adjourn *All* the Clergy below; if those of *Each* Province had not a *Separate* Right of Adjourning themselves. And if this was the Language, and Practice of the *Irish* Convocations, it will be a strong Presumption in favour of the Lower Clergy's Pretensions, here at home: for it is certain, that both the *Parliaments*, and *Convocations* of *Ireland*, were deriv'd from hence, and fashion'd after the *English* Model.

Dr. Heylin's Extract, a good Proof of it

I shall add one Reflection more on this Head, which the MSS Extracts of Dr. *Heylin* made long ago from our Upper House Journals, furnish me with. These Extracts reach from the Convocation of 1529 to that of 1592; and the Language of them, where they Express the Continuations *de die in diem*, generally is, that the *House Adjourn'd* to such a Time. There are at least an *Hundred* distinct Adjournments, thus set down in that MS: which was an Expression that Dr. *Heylin* could not so regularly and constantly have fallen into, but that he knew very well, from the Concurrent Journals of the Lower House, then Extant, and from the Modern Practice of Convocation (in Both which he was Eminently skill'd) that the *Continuation* of the *Provincial Synod* or *Convocation* Above, extended no further than to the *Upper House*, and to what was *there* to be transacted by the *Bishops* and *Clergy*, at each Synodick Session.

† p. 130.

The *Asserter* indeed throws off this Evidence by saying, † that the Extracter us'd this Phrase only to *shorten* the account of *Continuations*, which return'd so often upon him: But surely his Account of them had not been much *Longer*, had he said always, *the Convocation Adjourn'd*; as he would, I doubt not, have always said, had he thought the Continuations enter'd in the Upper Registers, to be, strictly speaking, Adjournments of the *Whole Convocation*. But he knew they meant no more, than the *Continuations of the Parliament*, enter'd in the Books of the House of *Lords*; and therefore express'd himself, in his account of them, *just so*, as he would have done, if he had been abridging the *Parliament Journals*.

By this time, I suppose, it appears, what the *Convocation*, or *Synod Provincial*, said to be Continu'd in the *Schedule*, means; and that no Argument can be drawn from thence to the Prejudice of that Right which the Lower House have of making *Separate Adjournments*.

Should

Should the words [*Prelator' & Cleri Cant. Prov.*] be allowed to have been a Fixt and Standing Part of the Old Schedules (as they certainly were not;) yet would not even this Insertion it self destroy the Right claim'd; but only imply, that the Synodick Meeting of the Prelates and Clergy, in the Upper House was put off to such a Time, by the Reading of the Schedule; not that the Lower House it self, as a Distinct Body of Men, was actually dismiss'd by it. A

4th. Phrase, well worth our Notice, in the Schedule, is, that it Continues the Convocation, and the Business of it, *in eodem statu quo nunc est*; that is, it entirely suspends it, till the time of the Synodick Session returns. The Asserter allows this \* to be the true sense of the Words; and the like Use of them in the

The Phrase in eodem statu quo nunc est, compar'd with *Praefate*, proves the Lower House not to be adjourn'd by the Schedule.

\* pp. 86, 90.

Parliament-Writs, and Rolls will not suffer us to doubt of it. For there, the King is often said to Adjourn, or Prorogue the Parliament (words which were then Tantamount, even as apply'd to the Civil Assembly) in *statu quo nunc est*: and when he did so; there was an Immediate and Total Interruption of all the Business, then depending in either House of Parliament. Now from hence we may reasonably infer, that the Adjournment made by the Schedule, did not Affect and Include the Lower House; because we are sure, that the Continuance of the Debates of that House were no ways affected by it. For it sat afterwards, at their Pleasure, notwithstanding the Schedule; as shall, ere I close these Reflections, be prov'd. And if so, it is impossible that the Continuation made by it, should belong to Them, as an House; for then, it would have dismiss'd them, as an House also. The Asserter yields, that they sat Intermediately; but says, that this was, not at the Will of the Lower House, but by Direction from the Arch-bishop \*. I shall consider that Pretence more fully, by and by: In the mean time, it may suffice to give this short Answer to it; that the Hypothesis of the Advocates on the other side, leaves no Room for the Lower House to sit, after the Schedule is publish'd. For we cannot conceive how an Adjournment by an Instrument, Fram'd, Sign'd, and Attested with so much Solemnity, as the Schedules now are, should be relax'd, in any Clause of it, by a Verbal Order, or Permission of the Arch-bishop. The Authority by which they sit intermediately, must, in all reason, be as Full and Formal, as That, whereby they are dismiss'd; which it cannot be, unless in some Part of the Schedule that suspends their Debates, they were expressly indulg'd and inpower'd to Con-

\* The Parliament Roll of the 21 R. 2. n. 36. says, that the King Adjourn'd it, *avec toutz les Estatz & Degrees de Parlement*, come ils sont—*tanque al*, &c. and the King therefore, in his Writ of Resummons, says, *dictum Parliamentum in statu quo tunc fuit, duximus Prorogand' & Continuand.*—Rot. cl. pt. 1. m. 19. d. See also Rot. Parl. 5. R. 2. n. 54. 3. H. 4. n. 13. p. 1. cl. Rot. 11. R. 2. d. m. 13.

\* p. 86, 87.



*time* them, beyond the Time prefix'd by it. But it is not pretended, that any such Leave was ever given the Clergy, in the Schedule it self: and therefore, if they still proceed in Business, notwithstanding the Clause, *in eodem Statu quo nunc sunt*; it must be, because neither That, nor the Schedule, extends to

\* When *em* as a *Separate Body*: for if it doth, they are irrevocably concluded by it. This will be yet plainer, if we put the Case, as to the *Upper House*; and suppose the Arch-bishop, after reading the Schedule there, to keep the Bishops still sitting upon Business, by his Own Authority: Would any thing they did, in such an Interval, be Synodically done? or in a Legal Assembly? No Lawyer will say so. For, as soon as the Adjournment is pronounced, their Former Capacity of Acting immediately ceases: and so must that of the Lower House too, as soon as the Schedule is notifi'd to them, if they Sit and Rise merely by the Authority of it. But more of this in its proper place.

still, if they had business, assembled together in that Interval, and did it. Of which take One Remarkable Instance, instead of Many that might be given. May 21. 1356. *Facta suscipe per Dominum, &c. dicto Clero, quod, Consideratis expositis ei pro parte Regis, super meliori responsione, deliberarent usque diem—Crastinum, idem Dominus Concilium hujusmodi, & Expediendum in eodem Continuavit in Statu quo tunc fuere—ad diem praedictum.* Tho' the Business of Convocation, i. e. of the Whole Synod, considered as one Body, continu'd in *statu quo*, upon this Adjournment, till the Stated Time of the Common Session return'd; yet were not the Debates of the Lower Clergy interrupted by it. On the contrary the Adjournment was purposely made, to give the Clergy Time of Deliberating, and coming to such Resolutions as they might be ready to Report the Day afterwards. The *Tractatus Convocationis*. [Apr. 1371.] *Negotium Convocationis*, [May 1379.] or, as it is more expressly said, *Negotium, quo ad Comparitionem Ipsius [Archiepiscopi,] & Pralatorum, ac Procuratorum Cleri* [16 Kal. Jun. 1379] was Adjourn'd by the Arch-bishop; But the *Procuratores Cleri*, who form'd a separate Body, were not suspended totally from acting by that continuation of the Synod.

The Manner of Executing the Schedule.

IV. The Next thing propos'd to be consider'd, is, the manner of Executing the Schedule: and that this was done all along, till Mr. Mundy's Time, meerly by the Archbishops Reading it in the Upper House, without either His subscribing it, or the Notar'ys Attesting it, or a Transmission of it to the Lower House, is plain beyond a Denial. And if it be; particularly, if the Two Last of these Circumstances, which are the most Material, are Novelties of Yesterday, no ways Incident to a Regular and Legal Execution of the Schedule; with what colour can it be pretended that this Instrument hath any Proper and Direct Influence on the Lower House Adjournments?

It was not Subscrib'd by the Arch-bishop.

The Constant Tenor of all the Bishop's Journals to the Year 1666, is, that his Grace, or his Commissary, with the Consent of his Suffragans, continu'd to such a Time, *prout in Schedula per eum LECTA, cujus Tenor est Talis.* But it is never once said

Sub-

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*Subscripta* or *Signata*; nor is there any the least Hint given, in all the Records of the Upper or Lower House, that it was either *Writ* *sent* by the Register, or *sent down* to the Clergy: which I take to be an Evident Proof that these Formalities were not then observ'd; because, since they have lately been practis'd, the Upper House Books often take notice of them.

In the Books of York Province, the Schedules are frequently enter'd at length, but not *sign'd*; nor was the Schedule, by which Arch-bishop Cranmer here dissolved a Convocation, in 1536, (a Copy of which, as it lay in the Acts, I have seen and shall place in the Margin †) subscrib'd by him. It will be said, that the reason of omitting this Formality in *these* Instances was, because the Instruments referr'd to were all read in the face of the *Whole Convocation*; and there was no need of the Arch-bishop's *Signing* what the Clergy heard him *read*; and could not doubt therefore whether it was his Act or no; as they might, when at a Distance; and therefore, *ad fidem faciendam*, he us'd to set his Hand to it. But this solution will not hold: for since it hath been usual to Subscribe the *Schedules*, they have been equally *sign'd*, when the Two Houses were *together*, and when they were *asunder*; for Example, When they were form'd upon Royal Writs of *Prorogation*, or *Dissolution*; of which there are Many Instances now Remaining in the Office. Besides, this *Subscription* was, a in the very Nature of the thing, superfluous: for the Schedule was read always in the *Presence* of a *Sworn Notary*, who enter'd his *Testimony* of it in the *Act* of the Day; which was Evidence sufficient of the Truth of the Fact, without any further Formality. And therefore the *Directory* of 1562 (which seems to have restor'd the Regular Use of the Schedule while intermitted) says only, that his Grace [after the Retirement of the Clergy] is to read, first a *Schedule* of *Contumacy*; and then a *Schedule* of *Prorogation*; without directing his *Subscription* either of the One, or the Other.

The *Notarial Attestation* of the Instrument is equally Modern, and came in, I believe, after this manner. When Mr. Mundy was first employ'd in the Upper House, all Business had ceas'd there, and a Commissary came only to Adjourn it. So no Register was kept; but the *Act* of the Day was thus enter'd in the Margin of every *Schedule*, *In Capella H. 7. &c. Lecta & Subscripta est hæc Schemula in prasentia mei - Notarii Publici*. And the Series of these *Schedules*, thus reduc'd, as it were, into *Acts*, supply'd the Room, and sav'd the Trouble of Composing a Regular

† In dei Nomine, Amen.  
Nos Thomas permissione  
divina Cant. Archiepiscopus,  
totius Angliæ Primas,  
& Metropolitani Thane  
prasentem Convocationem,  
alias in hos Diem,  
Horem, & Locum continuatam, virtute Brevis Domini nostri Regis nobis in hac parte directi penitus dissolvimus, in hiis Scriptis.

Nor Attested by the Register.

Journal

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Journal. At the bottom therefore of One of thele *Original Instruments* (dated *March. 21. 1677.*) we find the Business of the Day extended into a *Formal Act*, where a Particular account is given of the Presenting and Admitting Dr. *Stillingfleet* to the Prolocutorship, and of the Adjournment afterwards made by the Bishop of London, *prout patet in Schedulâ suprascriptâ, per eum tunc & ibidem Lectâ, & SIGNATA, prasente, &c.* which, it seems, was the most remarkable Transaction, that happened in *Mundy's* time: and there being no Journal to record it in, he enter'd it in the *Schedule*.

Nor Trans-  
mitted to  
the Lower  
House.

The Solemn, *Authoritative Transmission* of this Instrument was yet Later. The Worthy Author of the *Expedient* (whose Good Intentions have been requited with very Ill Usage) has rightly fix'd the Time of it, in the Year 1689, and given a very Just and Natural Account of it, which the Writer of the *Reflections* opposes but faintly: not denying the *Matter of Fact*, but only Cavilling at a *Circumstance*, in his manner of *Explaining* it. I say, the *Authoritative Transmission* of it—since, Several Years before this, it might have been *Casually* brought down by Mr. *Mundy*, when he was *Actuary* to Both Houses. For after he had attended the Commissary Above, in *Henry* the 7th Chappel, and came down to Enter the Prolocutor's Prorogation below, it is not likely that he left the *Attested Schedule* behind him; but rather that he brought it to assist his own Memory, and Inform'd the Prolocutor out of it, to what Time the Upper House was adjourn'd. And this Method, thus *accidentally* taken up, above 30 Years ago, upon *Mundy's* Relation to Both Houses, might be the more easily afterwards admitted as a *Regular and Customary Usage*, by those Members, who knew it had obtain'd, without a Distinct Remembrance of the True Occasion that gave Rise to it: especially at a Time, when Convocations and their Rights were much Neglected, and Discountenanc'd.

An Ac-  
count of  
the Phrase  
*Intimavit*  
*Verbo tenus.*

However this may be, certain it is, that the *Transmission* of the *Schedule*, is a Practice Entirely New: for 'tis absolutely incredible that it should have prevail'd all along; and yet both the Upper and Lower House-books be wholly Silent concerning it. The Only Expression, in All the Journals of Either, pretended to imply it, is that of *March. 28. 1589.* where the Prolocutor is said *Intimare Verbo tenus Convocationem esse Continuatam.* But this is a Poor argument, to build such a Pretence upon: for why must the Phrase, *verbo tenus*, be necessarily understood in Opposition to a more Usual way of Adjourning, in *Scriptis*? and were it so oppos'd, yet why may not such an Adjournment in *Scriptis* be interpreted rather of a Form of Continuation pronounc'd

by



by the Prolocutor out of a *Written Paper* of his *Own*, than out of the Arch-bishop's *Schedule*? The *Reflector* answers, that such an Adjournment below, out of a *Written Paper*, is not to be suppos'd, because no Trace, or Footstep of it remains any where; (p. 15.) not considering, that there is just as much and no more Evidence, for the Practice of Adjourning out of a *Schedule*. And since the Records are Equally silent as to *Both* these Methods, why must, *verbo tenus*, in this Act, be oppos'd rather to the *One*, than to the *Other*? In truth, there are no such Mighty Mysteries couch'd in this Phrase; it being merely a Negligent Expression of *Coston*, the Actuary, who, tho' *present* at several *Sessions* of *Business*, was yet never employ'd to draw any of those *Acts*; but made use of only at the very *End* of the Convocation, in the absence of *Barker*, to Enter the Forms of Adjournment, when all the Business was over. And doth it not shew the Gentlemen, who plead for the Arch-bishops Power, to be mightily at a loss for Arguments to Establish it; when they seem inclin'd to build a Point of such Vast Consequence, as this of the *Transmission* and *Intimation* of the *Schedule* is, upon so slight an Expression, which Occurs but once on this Occasion in all the Journals, throughout 160 Years?

In truth, there is, at first sight, so great an *Absurdity* in the Pretence of such a *Transmission*, as one would wonder the Writers on the Other side should, after all their Enquiries into this Subject, have overlook'd.

The *Schedule*, is a Formal *Sentence*, or *Decree*, pronounc'd by the Arch-bishop, in Open Court, *Judicialiter Sedens*: and how such an *Original Sentence* should regularly be transmitted, out of it's Proper Court; much more, that it should be reduc'd into Writing, merely in order to such a *Transmission*, is hard to Imagine. And yet this is the *Scheme*, which the Asserter of the Arch-bishops sole Power builds upon, affirming, that there could be no End in the Arch-bishop's Way of Continuing by *Schedule*, but to Notify the Continuations to the Lower Clergy, after their Debating in the same Place with the Bishops became less Common [p. 73.] And the same he say's, or supposes, in twenty other places of his Book; it being the Great Principle, upon which most of his Reasonings about the Nature, and Force of the *Schedule*, turn: tho' now, after better Information, he endeavours (not without great Disingenuity) to perswade his Reader otherwise. [See Refl. pp. 18, 19.] That this could not be the *Sole End*, or indeed *Any End* of Continuing by *Schedule*, is from hence Manifest, that *Foreign Councils*, which were the *Patterns* we followed on this head, were us'd so to be continu'd, tho' the Members

The *Schedule*, an *Original Sentence*, and therefore not to be Transmitted out of its Proper Court.

Members all sat together in the Act of Continuation; and even our Own Convocations have been all along in like manner prorog'd, and dissolv'd upon Royal Writs, when the Clergy appear'd, in the Upper House together with the Bishops.

But I need say no more upon so plain a Point, which no Fair Man, who hath any skill in these Matters, will (I dare say) ever hereafter dispute. Taking it for granted therefore, that neither the *Attestation*, nor *Transmission* of the Schedule belong any ways to the *Execution* of it, or have been Customary in Convocation; from hence I argue, that the Act of Continuation is nothing more directly, than a *Dismission* of the Upper House; and of the Synod, by *Consequence*, there held: but affects not the Sitting, or Debates of the Lower House, nor includes an Adjournment of them: for if it did, that Act of Continuation would be declared to them immediately, in as Solemn and Authoritative a Manner, as it was made; and Notice would be taken of such Messages, in the Act-books as regularly, as of all other Commands, or Directions, which His Grace sends to the Lower Clergy; for so it is, in the Journals of Parliament.

Adjournments by the Arch-bishop's Command accounted for.

\* There are but 4 Instances, where the

When the King sends out a *Commission*, or a *Command* for Adjourning the Lords and Commons; either that Commission is shew'd below, or an Authentick Notice of That, or of the Royal Command, is given them, and an Entry of such Notices made in the Journals: whereas the Entries of the Adjournments of the Lower House of Convocation have nothing of this kind in them. They are not prefac'd with a Message from the Arch-bishop, nor is His Name mention'd in them, unless in a very Few Instances, \* where it is not difficult to shew, why His Interposition is so particularly taken Notice of.

Arch Bishops Command, Decree, or Pleasure, is mentioned in the Lower House Entrys. The First is, March. 6. 1586. When Five of that House appear'd, *Quibus intimatum fuit, hujusmodi Convocationem de Mandato & Voluntate Reverendissimi, &c. esse continuandam in diem Mercurii, prout reverà continuata fuit. Unde postea discesserunt.* The true Account of which is, that the Convocation had, on Saturday March the 4<sup>th</sup>. granted a Benevolence to the Crown; but wanted a License to pass Canons for the raising it; and adjourn'd therefore till Monday: when some of the Clergy came to Convocation, in Expectation of it, and were told from the Arch-Bishop (who was to procure the License) that it could not yet be got ready, and that He had order'd an Adjournment till Wednesday; as he might Regularly do, in the Absence of the Bishops, who sat not on this Day: for then the Authority of the whole Upper House was in him. And all Business being at a stand, till the License issued, the Lower House, according to the Arch-Bishops Direction, waited for it till Wednesday. Two other Instances there are, of March, 11. and March 15. 1586. When the appearing Members were again inform'd, *hujusmodi Convocationem esse continuandam de Mandato Reverendissimi, &c.* For which there was a Like Occasion; a Committee of both Houses having been appointed on March 10. and then sitting, to perfect the Constitutions. The *Prolocutor* was of this Committee, and the Bishops attended not in either of these Sessions; Both Houses waiting, till the Canons could be compleated, and

and *Engross'd*, in order to their Passing them. In which Case the Arch-bishop was left to Adjourn by the Consent and Agreement, as it were, of the Whole Convocation. The Last Instance is, of March 28. 1589. when the Parliament was upon the point of breaking up, and the Clergy came together only to know the Time at which the Arch-bishop was to Dissolve them: for which therefore he assign'd the Wednesday following, and the Prolocutor is said to intimate, that the Convocation was continu'd to that Day, *juxta Decretum Domini Archiepiscopi*, that is, according to his Direction. And here too, as well as in All the other Instances, the *Blank Sessions* in the Abridgment of the Upper House Journal shew, that the Bishops were not Sitting. And consequently the Whole Power of Continuing that House being devolv'd on the Arch-bishop, He may, without any great Impropriety, be said to have Decreed an Adjournment of the Synod, that is, of the *Synodick Session*, and *Business*, which determines with the Rising of the Bishops; and in which the Clergy were, at present, no further concern'd, than barely as they were to Meet, and Receive the King's Writ, and the Arch-bishop's Act of Dissolution. This was really the Case in those several *Void Sessions*, where the *Mandatum*, *Voluntas*, or *Decretum Reverendissimi* are mention'd; which cannot therefore justly be urg'd, as Regular Precedents for the Arch-bishop's sole Power of Continuing.

And his being said to interpose in *These*, is a strong presumption, that in all the *others*, where nothing of that kind is said, he did not interpose; and is therefore a Confirmation of the Lower Houses Right of Adjournment, rather than any Prejudice to it. The Parliament is much oftner said to be Adjourn'd, *de mandato Regis* (even in the Later Journals,) than the Convocation is said to be Continu'd *de mandato*, or *juxta Decretum Reverendissimi*. Doth it follow from thence, that the Lords and Commons have not severally an Intrinsic Inherent Power of Adjourning themselves? and is it not to be taken for granted, that, whenever this *Mandatum Regis* is not express'd in the Journals, they exerted that Power, as they thought fit, and were under no Direction in the Exercise of it? This is an Inference, which would be thought clear beyond Dispute in *Parliamentary Adjournments*: and how comes it then to loose it's force, when apply'd to those of *Convocation*? Indeed, in One respect, the Parallel fails: for the Crown is possess'd of an Undoubted Prerogative of Commanding the Joynt Adjournment of the *Two Houses of Parliament*; and when therefore such *Commands* issue, they are, of Right, to be Obey'd: whereas the Arch-bishop hath no such *Inherent Authority*; and therefore his *Commands* for Adjourning the *Convocation*, have no peremptory Influence, but are merely *Directions*, which may be comply'd with, or declin'd, at the Discretion of the Body. *Mandavit*, is said several times of the Arch-bishop, \* in the Act-books, when the Business recommended to the Clergy, is to be done by *Their Authority*, and *Consent*; and may be done, or not done, as They shall think fitting.

From what hath been said on this Article we may Collect, that the *Continuation* express'd in the *Schedule* dismisses the *Upper House* only, without any *Immediate Influence* on the *Lower*:

\* Feb. 17.  
1575  
Jan. 27.  
1580. in  
relation to  
a subsidy.



for if that One Act adjourn'd both *Houses*, the *Transmission*, and *Notification* of it, by his Graces Officer, to the Prolocutor and Clergy, would have been frequently observ'd in the Records of Convocation, as a *Regular* and *Necessary* step towards the Compleat *Execution* of the Schedule below : and yet nothing of that kind ever occurs there.

Notice  
given to  
the Lower  
House, of  
the Bishops  
Adjourn-  
ments, not  
*Authorita-  
tive*, but  
by way of  
*Information*.

'Tis true, some sort of Notice the Lower House must have had of the Arch-bishop's Adjournments: for else, they could never have conform'd their Synodick Sessions to those above. But that Notice was rather by Way of *Information*, than *Authority*; convey'd perhaps in a Whisper of the Register to the Actuary, or the Prolocutor; and so *privately* given, that it was not thought fit to be mentioned in the *Publick Acts* of Either House; as it would certainly have been, if it had included an *Authoritative Message*, or *Decree*, from his Grace, and his Brethren: for Many such *Messages*, by the Register, to the Lower House, appear in the Records of Convocation.

I know, it may be pretended that these *Messages* are sufficiently taken notice of, in the *Lower House Acts*, when it is said there, that the Prolocutor *intimated*, or *publish'd* an Adjournment. I shall consider that Plea presently: But *supposing*, the Omission *below* were thus to be accounted for, yet how will this salve the Difficulty *above*? where we never meet with any Hint of such a Message sent, tho' we have the Upper House Registers of many Years Compleat? Is it possible to account for their *silence*, upon any Other foot than this, that the notice given, was only by way of *Private Information*, but not of a *Formal Message* from One House to Another? as indeed it could not well be: for the Upper House *Rising*, before the Arch-bishop sent down the Register with Notice; he could not come as from an *House*: and *therefore*, neither could any *Entry* be regularly made of his coming on these Errands, in the *Journals* of that *House*. Accordingly the Journals of the Peers are equally silent in *Like Cases*. For On the 2d. of Jan. 1566. They say only, that the Keeper *Continuavit presens Parliamentum usque ad horam*, &c: but mention nothing of any word sent to the *Commons* about this Adjournment; because it was sent only by the *Keeper*, after the *Lords* were *risen*; as Sir Symonds' Ewes Observes: "Note (says he) that "it appears in the Original *Journal-book* of the *H. of Commons*, "that after the *Parliament* had been *continu'd*, as aforesaid, Dr. "Huick was sent down to the said House from the Lord Keeper, "to give them Notice thereof. And it is *This Scheme* alone, which will justify the *Like Omissions* in the *Bishops Journals*. For whatever came from the Arch-bishop, while he was in the

the Chair of the Upper House, was entred in their *Acts*. But what he did afterwards, when he was *out* of the Chair, and had *actually adjourn'd* the House, could not *there* be observ'd. It was only a *By Notice*, as it were, given by his Grace; but carried not the *Authority* of the *House* with it, and therefore had no Place in it's *Journals*.

Two things there are, which the Advocates for his Graces Power, when press'd with such Reasonings as these, chiefly take Refuge in. They observe, that the very *Form*, in which the *Prolocutor* declares the Continuation of the Lower House, shews, that he did it by express *Direction* from the *Arch-bishop*; tho' that *Direction* be not plainly mentioned: and that this is further prov'd by the perpetual *Uniformity, and Concurrence of Adjournments* in Either House of Convocation. I shall Examine Both these Pretences, and shew the Insufficiency of them.

To support the First, the *Form* chiefly insisted on, is, *That*, wherein the Lower House is Adjourn'd by the word, *Intimavit*; as it frequently is, in the Books of 1586, 1588, and 1661, &c. where it is said, *Dominus Prolocutor Intimavit Convocationem hujusmodi esse Continuatam, Continuationem hujus Convocationis esse factam*, or the like. For from thence it is inferr'd, that the *Declaration* he makes in this Case, relates not to any *Act* of that *House*, in which he sits; but to the *Arch-bishop's Act* Above, whereby the *Whole Convocation* is at once Adjourn'd. This is thought to be the most Natural Sense of the Word, *Intimavit*, and of the *Hujusmodi Convocatio* here said to be Continu'd,

As to the Phrase, *Hujusmodi Convocatio*, I have shown already, that it is determin'd, by the Particular Application of it, to signify *Either House*, Apart, as well as the *Whole Convocation*. The Instances I have given of this kind are Various, and Indisputable; and will receive some Additional Strength, if we consider, that in the Same Books, wherein the Forms before alledg'd so frequently occur, there are Others, in which the Adjournment of the *Convocation*, is expressly limited to the *Lower House*: For Example, 7 Martii. 1588. *Dominus Prolocutor intimavit Continuationem hujus Domus Convocationis esse factam in diem*, &c. 28 Feb. 1588. *Intimavit quod Confessus hujus Domus Continuetur usque*, &c. and it is repeated *seven* times, in the Compass of *Nine Sessions*, [A. D. 1586.] that the *Prolocutor*, or his Deputy, *Continuavit hujusmodi Convocationem*, quoad hanc Domum, *usque ad*, &c. Now these Restrain'd Forms are a sure Key to interpret those Others, at the same time practis'd, where the *Convocation*, at large, is said to be continu'd. For the Intention of *All* of them being the same; the One ca Mean no more than

*Hujusmodi Convocatio*, in the Lower House-Acts, what it signify's.

is Express'd in the *Other* : and Consequently, the Restriction of *Quoad hanc Domum*, must always be understood, even where it is not mentioned. The *Manner of framing* the Lower House Acts shews this : for the *Front* of them expresses the *Place* in which, and the *Notary before* whom, every thing on that day pass'd. And when therefore it is afterwards said, that the *Hujusmodi Convocatio*, or the like, was Continu'd in *hunc Locum*, nothing more can be meant than the *Convocation*, or *Assembly of that House* : for *That* alone is continu'd in and to that *Place*, and *before* the *Notary* there concern'd; and *That* alone reassembles in the *same Place*, by vertue of such Continuations. But more of this immediately

From the Like *Comparison of Forms* we may have also a satisfactory account of the Word, *Intimavit*, which we are next to Consider. The Dispute is, whether this be an *Intimation* of an *Adjournment* made *below*, or of the *Arch bishop's Act* *Above*. To decide it, we may observe, that in the Three Lower House Books, now remaining, there are (as I reckon) near *Three hundred and Seventy* Entrys of so many several *Adjournments* of that House. Among These,

\* To Compleat this Number, I take in all the Entrys by the Word, *Similiter*, which follow an *Adjournment* by *Intimation*. Thus, 19 Feb. 1662. it is said, *Intimata & facta est Continuatio in 25 Feb.* And then—*similiter*, in 5 Martii—and so on, for 13 *Prorogations* together; which I am willing to throw into the Account, and to allow as intended by the Actuary to run in the *Stile of Intimation*.

† Four of which have been already accounted for; the *Fifth* is, as follows. Feb. 28. 1588. The Convocation adjourn'd to *Lambeth*, the Arch-bishop being sick. And there, after they had passed a Grant, it is said, that the Bishop of London, *Vigore Commissionis sibi in eâ parte facta*, continuavit *hujusmodi Convocationem*, back again to *Westminster*—*Quam Continuationem Dominus Prolocutor intimavit omnibus presentibus, & monuit—ad interessendum*. The Expression is Singular and Harsh, and seems to have been occasion'd by the *change of Place*, which the Arch-bishop directed, and which the Prolocutor notify'd, from his Commissioner, to the Lower Clergy.

there are not *Seventy*, to make the most Liberal Allowance that run in the *Style* \* of *Intimavit*, *Significavit*, or the Like; nor above *Five* of these, † that speak of the *Adjournment* as made by any *Command*, or *Messsage* from the Arch-bp. All the rest almost are express'd in such a *Manner*, as gives us no reason to suspect, from the *Forms* themselves, that the *Arch-bishop* was any ways concern'd in them; and so, as they might have been, if the Lower House had an unquestion'd Right of determining the Times of it's Own sitting and Rising. For the Tenor of them is, as follows: *Dominus Prolocutor continuavit hujusmodi*

*Convocationem quoad hanc Domum—Prorogata fuit Sessio usq; ad—Domini Prorogarunt—Domini Continuarunt & Prorogarunt—Decani, Archidiaconi, ceterique Domus Inferioris Continuarunt ulteriorem Sessionem—Domini Continuarunt ulteriorem Sessionem—*  
Domi-



*Domini Prorogarunt ulteriorem Sessionem—Dominus Prolocutor continuavit ulteriorem Prorogationem—Domini Continuarunt—Prorogatur—Continuata fuit Hæc Convocatio—Prorogata est—Continuatur—Prorogatio facta est—Similis Prorogatio fit—Facta fuit Prorogatio—Continuatur hæc præsens Convocatio—Continuatur & Prorogatur—Continuata est hæc Convocatio—Continuata est—Continuata est hæc Synodus—Continuatur & Prorogatur hæc præsens Synodus—Prorogata est hæc Convocatio—Prorogatur hæc Præsens Convocatio—Continuatio fit—Continuarunt & Prorogarunt hanc Synodum—Prolocutor Continuavit præsentem Convocationem—Prolocutor Continuavit hanc Synodum.* In All this Variety of Forms, there is not one, but what, if taken together with the Circumstances, under which it is enter'd, Implies a *Separate Power of Adjournment* to rest in the House, and to be exercis'd by it. For All of them almost are, as I have said, *prefac'd* with a Particular Account, that what follows, was done, in the Room where the Lower Clergy were sitting, and in the Presence of *their Actuary*: and therefore the Act of Adjournment afterwards enter'd, is, to all appearance, the Act of an Adjournment made, not only *in*, but *by* the Lower House it self; no other Power being mention'd in the Act, as intervening, nor any the least Hint being there given of it.

Now the Forms which make thus strongly for the Power of the Lower House, when compar'd with those, where the Words, *Intimavit*, or *Significavit*, are us'd, bear the Proportion of above *Four* to *One* in the whole: and in all reason therefore ought rather to interpret, and determin the Sense of these *Fewer Forms*, then be themselves interpreted, and determin'd by them. Supposing All of them to be capable of *Two Different Meanings* (as 'tis certain, Many of those, which make for the Power of the Lower House, are not) and supposing those by the words, *Intimavit*, &c. did in their most Natural Sense imply a *Declaration* of the Adjournment made above; as 'tis certain, all the Rest do most Naturally imply the Adjournment to be an Act of the House below; yet why must a *Fifth* part give the Rule to the other *Four*, and not rather receive it from them? If any *Single Form* in the Book hath a Right to Explain the Rest, 'tis That by the Word, *Continuatur*; which occurs *thrice as often* there, as any other; and doth, when compar'd with the Title, and Body of the Acts, to which it belongs, [*Both Expressing a Continuation to the very Room where the Clergy debate*] make as strongly for the Notion of a *Separate Adjournment*, as the Form *Intimavit* can be pretended to make against it. And yet the Advocates for the Arch-Bishop's Power will not allow the Entry by the word, *Continuatur*, to govern the

Sense

Sense of all the Rest: and why therefore should they claim this Priviledge for the Form, *Intimavit*, which is not of near so frequent Use as the other, and is (as shall soon be prov'd) of as loose and undetermin'd a Meaning?

The Under-termin'd Forms [Continuatur, Prorogatur, &c.] prove the Lower House to be Adjourn'd Separately.

The *Asserter* is a little puzzled with this Evidence, and would fain Evade it by saying, that such *General Expressions* [*as, Continuatur, Prorogatio fit &c.*] can of themselves have no Influence on Either side of the Cause, there being no ground to argue from any of them that the House continued it self, but only that it was continu'd [p. 35.] But here he deceives his Readers. For the Question is, whether the Lower House be adjourn'd Separately from the Upper? or included in the Continuation made Above? A Separate Adjournment is proved from these *Entrys*, where the Title of the *Act* in each Session affirms, what ever afterwards follows, to have been done, that day, in the Lower House of Convocation. Then comes the *Entry* of an *Adjournment* of That House. From whence it is argu'd, that the Adjournment of the House was made in the House it self, and not *elsewhere*; nor included in the Arch-bishop's *Act* of Continuation. Yes, but the Title cannot confine things to be done in that Room, which the subsequent *Entry* makes no mention of; I mean (says he) the Power by which it was continu'd [p. 35.] what he means by a Power, done in a Room, I confess my self not to understand. But this I understand; that, what ever is entred after these Titles, was done in that Room which they mention; and therefore, that the *Act* of Continuation, there afterwards entered, was certainly done in the Room, before Expressed; and not in the Upper House of Convocation: and consequently, when it is said, That the Convocation was continued, or a Prorogation was made, in that Room, and to that Room, the Meaning is, and must be, that the Lower House of Convocation was there Adjourn'd, by a Separate *Act*, in the Presence of their Notary, who attests it. And, when we are got thus far (which is farther than the *Asserter* will allow us to go) the Manner of Entering that *Act*, must determin by what Power it was done. Now the *Act* Entred, extending only to the Continuation made below (for how can the Lower House *Actuary* [there] witness what was done Above;) and not mentioning the Intervention of any Foreign Power, It must be presum'd, that the Continuation made in, and of that House alone, and to that Place, where the House sat, was made by the House also; and not by the Arch-bishop, in another Place; when the *Act* no ways mentions Him, or refers to him: as it evidently does not, in all the Instances lately alledg'd; which are above 4 parts in 5 of the whole Series of Adjournments found in the Books of the Lower House of Convocation. And therefore, should there

there be any Doubt, as to the Forms of *Intimation*, [whether they notified the Arch-bishop's Act, or the Pleasure of the Lower House] that doubt, I say, will be clear'd, by comparing them with these other Forms, which exceed 'em so far in Number, and can reasonably be understood in no Other sense than this; That the House Adjourn'd.

But still it is Pretended, that the Book of 1586, and 1588, where the Form of *Intimation* is so often found, is a Compleat *Journal* of the Lower House Acts; whereas the other Entries alledg'd were made chiefly in *Minutes*, which are no Rules in point of Form. To this I reply,

Forms of  
*Intimation*  
to be found  
oftner in  
*Minutes*,  
than *Journals*.

(1st.) That the Forms of *Intimation* are oftner to be met with in what the Objecters style *Minutes*, than in the *Compleat Journals*. For of 70 Instances of that kind, above Half are to be found in the *Minutes* after the Restoration; and from May 16. 1661. to July 26. 1661. there are no less than 18 Entries of Adjournment made in that manner. So that if *Minutes* are inaccurate, and not to be depended on in matters of Form, we have more Evidence for the Inaccuracy of this Form, than we have for the Exactness of it.

Either the Diary of the Lower House after the Restoration is a *Minute Book*, or a *Regular Journal*; let the Asserter take which *Hypothesis* he pleases. If a *Minute-Book*, then the *Promiscuous* Use of the Phrase of *Intimation*, together with Others, that plainly imply the Adjournment to be an Act of the House, is an Argument, at least, that All of them signified the same thing. If it be a *Journal*, then the Entries in it, which make for the Power of the House, being in Number near Nine times as many as those by *Intimation*, and being equally *Authentick* in point of Form, must be allowed to interpret and determin the sense of them But in truth.

(2dly.) It by no means appears to me, that *Minutes* are not in such Points as these, as *Authentick*, and as much to be rely'd on as *Compleat Journals*. The Dispute is, about the Seat of that Power, by which the Lower House is adjourn'd. Now, supposing *Minutes* less Exact in the Manner of Entering Adjournments, than *Extended Acts* are; yet they cannot be suppos'd faulty to such a degree, as to confound, and misplace the Right of Adjournment: The Minute Writer may think himself at Liberty to use his own Phrases, upon such Occasions; but if he be tolerably Skilful, he can never use such, as directly lodge the Power of Continuation in the Lower House, which is inherent in the Arch bishop. At least, he could not do this constantly, and uniformly, throughout two successive Convocations, as

*Minutes*, as  
*Authentick*  
as  
*Journals*  
to deter-  
min the  
Power by  
which the  
Adjourn-  
ments  
there en-  
ter'd, were  
made.



† Except that of Nov. 4. 1640. where the *Arch-bishop* is said to have Continu'd; and not improperly: because this was the first day of Opening the Conv. the Two Houses being not yet fully Separated, nor the Prolocutor confirm'd. And *Fisher's* mentioning the *Arch-bishop* in *This*, and leaving out his Name in all the succeeding Continuati-  
ons, is a further proof of the Accuracy of his Entry's; for really *This* alone was made by the *Arch-bishop*; the *Rest*, by the *House*: and, we see, they are express'd accordingly.

*Fisher* in the Book of 1640, hath done; where every † individual Entry that mentions by *whom* the Adjournment was made, ascribes it purely to the *House* it self, without any Reference to the *Arch-bishop's* Power, or remote Implication of it. *Domini Porogarunt, Continuarunt*, or the like, is the style of these Minutes; and the Drawer of them is now known to have been as well skill'd in the *Rights* and *Usages* of Convocation, as any Man of his time. The Upper House Journal of 1661, &c. which he framed, is an ample Proof of his Abilities this way, even my *Lords* the *Bishops* them-

selves being Judges.

Nay, if there be any Disparity between *Journals* and *Minutes*, as to a proof of *Right*, in such a Point as this; the Advantage is, I think, rather on the Side of the *Latter*. For in *Journals*, it may be thought proper to keep up *Old Forms*, even after their *Original meaning* is lost, and when they do not strictly answer to Modern *Rights* and *Usages*: whereas in *Minutes*, the Actuary is more at Liberty to adapt his Phrase to Present Practice, and to use such *Words* as do most naturally express the *Thing* intended by them. Thus in the *Journals* of the *Lords*, it is said to this very day, *Dominus Cancellarius continuavit prasens Parliamentum*; tho' that Phrase be not now so proper, or so expressive of the Adjournment there made, as it was 2 or 300 year ago. But the Phrase of their *Minute-Books* is just, and free from all Ambiguity.

The most Colourable Exception against *Minutes*, as to the Entry of such *Forms* as these, is, that they are generally taken in *hast*, and therefore express'd with too much *Brevity*. But this Exception doth not hold, with regard to the Minutes of 1640; where the Entries of Adjournments are as large sometimes as in the Extended Acts of 1586, and 1588: For Example, the Minutes of May 2. 1640 run thus—*Domini Continuarunt & Prorogarunt ultorem Sessionem usque ad &c.* Those of Nov. 28. 1640, thus; *Dominus Prolocutor continuavit ulteriorem Prorogationem usque ad, &c.* And these Entries took up the Pen, and Time of the Actuary as much, as if he had employ'd the Form of 1588, *Dominus Prolocutor intimavit hanc Convocationem esse Continuatam, &c.* The Reason therefore of *Fisher's* varying the Phrase, could not be, for Dispatch; but because he knew, that, whether *This*, or *That* Phrase were us'd, still the same thing was meant by it, that the *Lower House* had Adjourn'd. And

And therefore, in the *Minutes* of 1662, [such the Asserter will have them] when *Fisher* himself attends on *March 27*, The Entry of the Adjournment is by *Intimation*; and by the Words, *Continuatur*, or *Prorogatur*, in *Three* \* Sessions afterwards. Which \* April 9. 1662. July 8 and 10. 1663. shews, that these several Phrases were thought by him Equivalent to *Domini Continuarunt*, &c. and so were equally employed by him, at different Times, in his *Minute-Entrys*.

Should we, after all, yield to those who plead for his Graces Power, that the Decision of this Dispute is to be had only from *Compleat Journals*, yet would they not gain any thing from such a Confession, because

(3dly.) The Greatest Part of the Forms Enumerated. [page 52. 53.] are drawn from a *Register*, and not from *Minutes*, properly so call'd; which are *Notes* only, taken upon the Spot, by an Actuary, while attending, for the help of his *Memory*: whereas most of those Entries I insist on, are fairly transcrib'd from the *Minutes*, or foul *Notes*, into an *Act-Book* of the Lower House; as appears, upon the first View of them. This Book, thus Copy'd from the Original *Memorandums*, extends from 1662 or 3, to 1678, and is all in the Hand of Mr. *Mundy*, the Actuary of that House, tho' He himself was *Absent* in several Sessions; particularly, on *March* the 27th, and *Apr.* the 9th, on *July* 8, and 10, 1662, 1663. Mr. *Fisher*; and on *Jan.* 25. and *Feb.* 6. 1677, Mr. *Tyllot*, attended for him. This, Mr. *Mundy* himself, in the several Acts of those Days, by him Copy'd into this Book, confesses under his Hand; and it is a great Mistake therefore to call these, *Minutes*, for they are in truth a form'd and regular *Journal*; which was lodg'd in the Office, as such, after the Fire; and where, if little else beside the Adjournments of the Lower House is enter'd, 'tis because there was little else done in it. The Bishop's *Register*, at this time, was nothing but a Set of Original *Schedules*, with *Marginal Entry's*, that supply'd the *Act* of the Day; which had less the *Face*, and *Form* of a *Journal*, than the *Act-Book* at the same time kept below. For there, a regular Account was set down (by *Transcript* from the First *Notes*, or *Minutes*) of every *Continuation*, made in the Lower House, from Day to Day. And these Entry's were all reduc'd into Formal *Acts*; specifying in every Instance, what was done, viz. the *Adjournment*; as also, where, when, and in what *Notary's* Presence, that Adjournment was made. Now nothing can give a greater Countenance to the Lower Clergy's Claim to *Separate Adjournments*, than these *Separate Entry's* of the Adjournments of their House, for, at least, *Twelve* successive Years, when the Adjournment of the House was the only Business that was done

The Lower House Book after the Restoration, not Minutes, but a Regular Journal.

## The Case of the Schedule stated.

in it, or by it. For if ever it was proper and Regular to adjourn *Both Houses* of Convocation by *One Act*, or *Instrument*, it was now, when the Whole Convocation met only, in order to be *Adjourn'd*. And yet still, we see, the several Parts of it were dismiss'd by *Separate Acts* of Adjournment: and, upon these *Separate Acts*, a *Lower House Journal* was fram'd; containing scarce any thing else but an Orderly Series of them, *de die in diem* So that (to Return) whatever Advantage accrues to Forms, by being Entred in *Journals*, and not in *Minutes*, belongs as well to the Entry's I have cited after 1663, as to those of 1586, and 1588; because *Both the Books*, where they ly, are equally *Journals*. And, setting *Minutes* aside, for the present, (such as I allow those of 1640, and 1661, in the Proper Sense of the word, to be,) yet why 200 Forms, and upwards, in One Journal of the Lower House, should not out weigh 30 in another, (supposing a Clash between them) is a little hard to imagine: Especially, since the set of Precedents, that is so much more *Numerous* is also much *Later* than the Other; and, by consequence, a much better Evidence of the Power and Liberties of the House, (which may encrease by *Time*, and *Custom*, as those of other Bodies do) than Forms of more than 110 Years standing.

But allowing the Eldest *Forms*, and the Eldest *Journal* [that of 1586] to be the most *Authentick*, yet the Advantage even of that Concession, will still be on the Lower-House-side; because

4thly. In the Eldest Part of that Eldest *Journal*, the Forms which most frequently recurr, are such as conclude the most strongly of any I have urg'd for the Right claim'd by the Inferior Clergy: for at the very Entrance of that Book we find it said, in *Seven* several Sessions, that the Prolocutor or his Deputy, *Continuavit Convocationem, QUOAD HANC DOMUM*; than which there cannot be an Expression contriv'd, that better establishes the Notion of *Separate Adjournments*.

The Reply given to this is, that the Prolocutor was *Comission'd* by the Arch-bishop to adjourn the Convocation, on Nov. 9. 1586, the Day, on which the Phrase *Quoad Hanc Domum* is first employ'd. Indeed the Author of the *Power of the Lower House*, &c. was once under these Apprehensions; and though he knew, they might give an Handle to Cavilling Adversaries, yet, thinking them Just and Well founded, determin'd not to Conceal them. But it has since been found, that he was under a Mistake in this matter: for, upon a Nicer inspection of the *Upper House Extracts*, from whence he took this Hint, it appears, that the Arch-bishop's Commission bore date, not on the 9th, but 4th of *November*: which Error he thinks it proper to rectifie, because

The Prolocutor did not continue, quoad hanc Domum, as the Arch-bishop's Commissary.



it may be *thought* Material ; tho, as He conceives, the Date of this Commission hath no Influence one way, or tother, upon the Present Argument. The Occasion of his Error will appear from a View of the *Extracts* themselves, with the *Words* of which, in the very *Form*, as they ly in Dr. Atterbury's MS, I shall here present the Reader.

4. Session. November 4th at Westminster, Deans, Arch-bishops  
Prolocutor presented Arch-bp's Commission to preside. Protestations Usual, Prolocutor Dr. Redman Arch-deacon of Canterbury presented, Adjourn'd to the Ninth of November instant. Then follows the Arch-bishop's general Commission to preside to five Bishops Dr. Redman Arch-deacon of Canterbury, Dr. Atwry Vicar-general, Dr. Goad Dean of Westminster, Dr. Dunn, Dr. of Law 63. 64.

5 Session Nov. 9.  
 1586. Adjourn'd  
 by Commission, 64.

6. Session. Nov. 9. 1586. Decided against Mr. Thoroughgood for Mr. West, in a Cause of Election to be Clerks of Convocation, Adjourn'd to the 16th. of November, 66.

7. Session. Nov. 16. 1586. Adjourn'd by Commission by the Arch-deacon, Cant.

The Commission being enter'd *after* the Adjournment to Nov. 9. and that Session being omitted \* in the Body of the Extract, and supply'd only by a Marginal Note, set over against the Place, where the Commission is put, led that Writer to believe, that the Instrument was fram'd in the 5th Session. But it is plainly otherwise. For the First Marginal Note shews, that it issu'd on Nov. the 4th just after the Ceremony of Presenting and Approving the Prolocutor was over.

\* For the Next Session is an account of what was done on Nov. 11. for which the Figure 9 is mistaken by the Extracter, who had at first also wrote [5 Session] in the Margin, but afterwards alter'd the Figure 5, there, into 6, forgetting to make a like Alteration of Nov. 9 into 11. in the Body of the Extract which follows.

And this indeed was the Proper Time for the Arch-bishop to direct his *General Commission to the five Bishops*, and four other Persons, to *Preside* for him, when ever he should be absent throughout that Convocation. Nor was it unusual to enter such Instruments, *after* the Act, and Adjournment of the Day on which they were fram'd.

This Mistake being set right, I proceed to observe, that on the Day, when the Prolocutor was first put into this Commission, he did not adjourn, below, by the Phrase, *Quoad hanc Domum*, but under the Form of, *Intimavit hujusmodi Convocationem esse Continuatam* ; and therefore the Rise of this Phrase cannot be accounted for from the Date of this Instrument ; for they are not Concurrent.

Nay there is good Ground to believe, that, though he *was* in the Commission from Nov. 4. yet he did not *Act* in it till Nov. 16, Three Sessions afterwards; when the Extracts *First* take Notice, that he Adjourn'd the Upper House; which they would have *before* observ'd, had he appear'd in that Capacity *Sooner*. But all the *Bishops*, who preceded the Prolocutor in the Commission, being *First* Absent on that day, He then *First* Executed it, as being Next in Rank and Order. So that neither can the *Original* of the *Phrase* be accounted for from the Prolocutor's *Acting* in the Capacity of the Arch-bishop's *Commissary*; because, in All Probability, he did not *act as such*, till after he had Twice \* Continu'd the Lower House in that manner.

\* on Nov.

9. and

Nov. 11.

\* Nov. 11.

Sure we are, that in one † of these Preceding Sessions, when he Adjourn'd, *quoad hanc Domum*, Below, he acted not, as the Arch-bishops *Commissary*, Above; because the Arch-bishop himself was Present in the Upper House, and the Prolocutor never appear'd there throughout that Session: Both of them being busied in the Tryal of Two several *Elections*, which were on that day finally determin'd by Either House of Convocation. The Words of the Lower House book are, *Igitur Dominus Prolocutor decrevit dictum Magistrum D. Dey recipiendum fore in Procuratorem ejusdem Cleri, & in Catum hujus Domus; eumq; sic recepit. Deinde Dominus Prolocutor certior factus de Voluntate Reverendissimi Patris (per Magistrum Thomam Redman ejus Registrarium) quoad Controversiam pro Electione Clericorum Dioc. Norwic, viz. quod idem Reverendissimus Pater protulit Sententiam suam pro parte Magistri West. &c. — monuit Eos ad recipiendum eundem Magistrum West. in Catum hujus Domus. Quibus sic gestis, Dominus Prolocutor Continuavit hujusmodi Convocationem QUOAD HANC DOMUM usque in diem Mercurii, &c.* Here the Prolocutor could not Adjourn in this form, as the Arch-bishop's *Commissary*; since it is certain, that he acted not in that Character, during this Session, and several others, where yet still the same *Phrase* of Adjournment is employed.

Particularly, on the 18 of Nov. [Sefs. 8.] the *Extract* speaks thus—“ Arch-Bishop gives Intimation at a Conference with “ the Lower House, to present, if any Bishop had Ordained, or “ Institute any Unworthy Persons, or of any Breach of the “ Canons, that it may be reform'd. *Adjourn* to the 23. Nov. 67. The *Lower Journal* mentions this Conference, and adds, *Deinde revertentes omnes in Inferiorem Domum, habitâ Exhortatione per Dominum Prolocutorem, ut reminiscantur Admonitionem Reverendissimi Patris iis factam, dictus Dominus Prolocutor Continuavit hujusmodi Convocationem QUOAD HANC DOMUM usque in &c.*

Thus

Thus also on the 2d. of Dec. in the afternoon, the Arch-bishop brought into the Upper House some *Orders* for the Increase of Learning &c. and receiv'd several *Complaints* from the Clergy. After which, says the *Extract*, "*Prorogued by the Arch-bishop [to] the 17 of Feb. 1586 at S. Pauls fol. 71.* And yet here again, below, *Prolocutor Continuavit hujusmodi Convocationem—quoad hanc Domum, usque in—17. Feb.*

It will be said, perhaps, that the *Prolocutor*, being Constituted the Arch-bishop's *Commissary*, dur-

ing the Convocation † might act and Adjourn, as such, in any Session below, even when he exerted not that Character Above. To this I Answer, First, that the Supposition it self is altogether Precarious, and Improbable: For whenever any Person Acts by *Commission* from another, he is, in the very Act it self, styled *Commissary*; and this is a Rule, which is strictly observ'd by Notaries, and particularly in the Records of Convocation; where Those that supply the Arch-bishop's Place in the Upper House, or the *Prolocutor*'s in the Lower, generally have, in each step they take, the Title of *Commissary*, or *Deputy* bestow'd on them. Can it be imagin'd that the *Prolocutor* should act, in all these Instances, as such; and yet not once come under that *Denomination*? I think it utterly incredible.

Besides, a *Commissary* is impower'd to do nothing, but what the Person *Commissioning* him was to have done, if present: and surely it will not be said, that 'tis any part of the Arch-bishop's Business, when Personally Presiding, to take the *Chair* of the Lower House, and Adjourn it. How then should any One do that for him, as his *Commissary*, which he *could not do himself*? I say, *could not*; for the *Practise* of Convocation is the *Law* of Convocation: and what therefore the Arch-bishop never *did*, he never *can do*; nor consequently, can any body else do it for him.

It has been pleaded of late indeed, that his Grace may, when he thinks fit, send for the Clergy up, and adjourn *Both Houses* together. If that Doctrine be good (as, I think, it is stark naught, wholly Unprecedented, and destructive of the very *Constitution* of an *English Synod*) there could never have been a more proper Occasion for putting it in *Practise*, than when the *Prolocutor* of the

† The words of the *Extract* are, — *The Arch-bishop's General Commission to Preside—* by which is meant, that it should hold, not only for the *Day*, on which it issu'd, but throughout the *Whole Convocation*. And so I find, the Matter was in the Preceding Convocation of Nov. 24. 1584; the *Extract*, at Dec. the 4th, speaking thus— "*Arch-bishop grants a Commission to five Bishops, the Vicar-general, Dr. Dunn, Dr. of Law, and Mr. Redman Arch-deacon of Canterbury, to Preside in his place, in his Absence, as often as need shall require, with Power from Day to Day, and Place to Place to Adjourn and Prorogue, &c.*" The Subsequent Commission of 1586, was founded upon this, and directed to almost the very same Persons; and therefore probably had the same Powers.



the Lower House was in the Chair of the Upper. Had his *Commission* then extended to the dismissing the *Whole Convocation*, would he not have dismiss'd it *all at once*, rather than have left the Clergy Headless, and Alone, while he was adjourning the Upper House, till he could come down to them, and by a New Act, adjourn their Assembly? He would, doubtless, have acted thus *Summarily*, but that he knew very well, both that his *Commission* extended to the *Upper House alone*; and that the *Two Houses* of Convocation could not be dismiss'd, but by *Two Separate Acts* of Adjournment.

This Pretence of his Adjourning by *Commission* will appear still more Ridiculous, if we observe that, in One of the *Seven* Instances, where the Phrase, *Quoad hanc Domum*, is employ'd, 'tis not the *Prolocutor* himself, but his *Deputy*, that Adjourns. For on the 2d. of Dec. in the Morning—*Decanus Westminster, Nominé Domini Prolocutoris, continuavit hujusmodi Convocationem, QUOAD HANC DOMUM, usque inter Horas 1 and 2 post Meridiem hujus diei; & Prorogavit Locum hujusmodi usque ad & in Sacell' olim nuncupat' beatæ Mariæ in Orientali parte Eccl. Cath Divi Pauli Lond. notoriè situat' &c.* Did the *Prolocutor's* Substitute, who is expressly here said to Adjourn, *nomine Domini Prolocutoris*, Adjourn really in the *Arch-Bishop's* Name, without any Notice being taken of it? Or rather, is not This Instance it self a Proof, that the *Prolocutor* would, in the *Six* other Cases, have been said to have Adjourn'd in the *Arch-bishop's* Name, if he had acted in them, as *His Delegate* only?

\* I go here according to the Lower Book, in it's way of Numbering the Sessions; in which it differs from the Upper.

\* Sess. 13.  
14.

Nay further, if a General *Commission* to the *Prolocutor*, among others, at the Opening of the Convocation had tied him up to Adjourn in his *Commissarial* Capacity ever afterwards; then *All* the Adjournments which he pronounc'd, during this Convocation, would have ran in the Style, *Quoad hanc Domum*; for in *All*, he was equally a Delegate. At least, whenever he actually discharg'd the *Commission* above, his Adjournments below would have been thus enter'd. And yet in the 2d, 7th, and 8th Sessions,\* the Adjournment of the Lower House is by *Intimation* only: and in the Two Last of these Instances, he probably acted for the *Arch-bishop*, Above; for in Both of them, the *Upper House* was Adjourn'd by a *Commission*, which he was regularly, in the Absence of the Bishops, to Execute. However that be, certain it is, that, in the Convocation of 1588, where Dr. *Styll* was *Prolocutor*, he twice\* adjourn'd the *Upper House* by *Commission*, and yet the Adjournment is enter'd by *Intimation* below: and tho' the *Prolocutor* be not expressly said to have made that *Intimation*, yet we have no reason to doubt of it, since he is nam'd in the Acts as Present;

Present; and there are other Instances of † Like *Intimations*, which the Prolocutor certainly *pronounc'd*, tho' that Circumstance be in the Act it self omitted. Upon the Whole, I may now, I think, reasonably conclude, that the Continuations *quoad hanc Domum*, have no necessary Connexion with the Prolocutor's Commission of Adjournment; either as he was invested by it with a *General Character*, or as he actually *exercis'd* the Powers contain'd in it: but were Forms, taken up by *Say* the Actuary, from the Elder Journals, now lost; and by him us'd, promiscuously with those of *Intimation*, to Express the *same* thing, to wit, the Adjournment, made *in*, and of the Lower House, *separately* from the Upper.

The Use of this Phrase by *Say* is a sufficient proof of the Accuracy of it: for he was, as hath been observ'd, \* the Son, and Successor of *William Saye*, who serv'd in the Lower House of Convocation, 40 Years; and being thus an Actuary by descent, cannot be suppos'd ignorant either of the Rights of the House, or of the Language of their Journals. He seems to have died soon afterwards: for *Mar. 10. 1586.* is the Last Time, I think, that we hear of him in the Acts; and from a Note of Mr. *Beal's*, (in one of my Lord *Longuevilles* Manuscripts) dated *June 1588*, I collect that he was *then* Dead: which I apprehend to have been one Reason of the Omission of this Phrase in all the Acts of the Two Last Convocations, after he went off. For *Barker* and the Other Actuaries, who supply'd his Place, took the *first* Phrase of Adjournment they found in *Say's Acts*, (which is that of *Intimation*,) and kept to it, even where the Phrase of Continuing *quoad hanc Domum*, would have been more Proper, by the Confession of those, who oppose the Power of the Lower House; I mean, in the Two Sessions of 1588; when, we are sure, the Prolocutor adjourn'd the *Upper House*, as the Arch-bishop's *Commissary*.

It is a pretty odd Objection against this Phrase, that it occurs not in the succeeding *Journals*, when the Objecters do not allow any Book of the Lower House to be a *Journal*, Properly speaking, but this of 1586, and 1588 only. However, in the *Minutes* of 1640, tho' this very Phrase be not found, yet are there several *Others*, much more advantageous to the Power of the Lower House than even *This* it self is; and which do more formally and expressly mention the *Adjournment* there made, as an *Act* of that *House*, exerted by the Sole Authority of it. Such are *Domini Continuarunt*, *Domini Prorogarunt*, and the like; which I have before reckon'd up, in the 53d page of these Papers; and shewn to be under no Disadvantage, because they are found in *Minutes* only, and not in *Compleat Journals*.

† Some in 1586, &c. and many in the Lower House-Book, after the Restoration.

*Say's* use of the Phrase, *Quoad hanc Domum*, proves the Accuracy of it, \* P. L. H. p. 6. c. 2.

The  
Phrases  
*Domini Con-  
tinuarunt*  
&c. nor  
owing to  
the Low-  
er Houses  
acting by  
a Commis-  
sion from  
the Arch-  
bishop.

As for the *Explication* given of these Phrases, in the *Right of the Arch-bishop* [p. 92, 93 &c.] by the Old *Salvo* of his Graces *Commission*, under which the Lower House are now supposed to have acted, and in (the Consequence of that Commission) a *Judicial Capacity*; it is, at first Sight, every way so *Forc'd*, and *Unnatural*; so contrary to all Probability, and to plain Matter of Fact; that I may safely trust it with any Intelligent Reader, without a Nice and Particular Examination. It supposes the Arch-bishop to have erected a *Court* for the Tryal of Elections, by the word *Voluit*, in the Upper House-Act of Nov. 14. which is a greater Mark of *Power* and *Prerogative* than the Crown it self challenges. It supposes him to have appointed a *Committee* of the Lower House on Nov. 14th, which it is manifest from their Journals, had been actually appointed on the 11. by the Clergy themselves; and had sat and tryed an Election on the 12, by Their Order. It supposes the Lower House to have sat all along from Nov. 14. for near 3 Months together, not as an *House*, but a *Committee*; even when they met on the same Days with the Upper House, and had their *Prolocutor* at the Head of them; and to have been thus long *Continued*, in the Capacity of a Committee (I speak that Writers words) from Session to Session; tho on Jan. the 27. they are expressly called an *House* in the Acts, where it is said, *Domus Con-*

† The same Expression unluckily occurs in the Act of May 2. 1640. where the *Asserter* [p. 33.] endeavours to account for the Use of the Phrase, *Domini Continuarunt & Prorogarunt*, by the same Pretence of a *Committee*: for on that Day it is said, that the *Prolocutor* made a Substitute, *pro hac Sessione ad Legend Preces in Domo Inferiori, & Votum & Suffragium suum reddere pro prorogatione prox sequenti. Et factâ declaratione hujusmodi Clero Domus Inferioris, Cleri eandem approbarunt & consentierunt & tunc Domini Continuarunt & Prorogarunt Ulteriore Sessionem usque, &c.* If the Mention of a New Session of a Sub-prolocutor, of Reading Prayers, of a Lower House, and of Proroguing the Session of that House, will not sufficiently distinguish an *House* from a *Committee*, I know no that will.

*sentierunt* †. Nay, it supposeth them to have acted all this while, as the Arch-bishop's *Commissarys*, without being once *Styl'd* so. It supposes the Word, *Domini*, [a Term of *Respect*] to belong more properly to a *Committee*, thus *Verbally* directed by the Arch-bishop, than to a *Lower House of Convocation*, strictly so call'd: and it supposes, that their *Actuary* could not, even in their *Own Books*, have decently given them this Title, which yet had, above Sixscore Years before, been constantly employed by the *Prolocutor* himself in his Addresses to the *Bishops: Memores Mandatorum vest-*

*rorum, Reverendissimi Domini, Inferioris Domus Domini mei*  
—Me eorum *Ministram taliter respondere voluerunt & jusserunt*  
—are the first words of a Message, brought up by *Prolocutor Taylor*, in the Year 1515; And he departs not from that Phrase, wherever



wherever, in this and Other Speeches of his (which I have seen,) he hath occasion to mention *the Clergy*. In a word, the Suppositions, on which the Odd Notion of this Writer is built, are so unaccountably Extravagant, and full of Absurdities, that I know no one thing, which more disgraces his Cause, than his Attempts towards supporting it, on the Present Article; which I am not now at leisure more Minutely to consider.

The Use I would make of these Reflections on the several Forms of *Entring the Lower House Adjournments* is, that since Those, which run in the style of *Intimavit, Significavit*, or the Like, are not, by Computation, a 5th part of the whole; and since All the Rest are plainly favourable to the Lower Clergys *Right of Continuing themselves*, and many of them utterly Inconsistent with the supposition of their being Adjourn'd by the Arch-bishop's Act above; nothing can reasonably be infer'd from those Forms of *Intimation* to the Prejudice of that Right, which is otherwise so well Established. They are, at most, but of *Dubious* sense, and capable, either of *signifying*, that the Prolocutor declares the *Pleasure of the House*, or the *Adjournment* made by the Arch-bishop's *Schedule*: And of these Two Senses, That surely is to be prefer'd, which directly falls in with the Constant *Tenor and Language* of *All the Other* Forms (a Few only excepted;) rather than *Another*, which is utterly Irreconcilable with *Many*, and thwarts the plainest and most natural Construction of *Most* of them. Especially, if it be considered, that this pretended Reference of the Prolocutor's *Intimation* to the Arch-bishop's *Schedule*, is not countenanc'd by the *Mention*, or *Hint* of such a *Schedule*, once in all the *Records* of the *Lower House* of Convocation: an Omission, that cannot possibly be suppos'd to have happened, if the Prolocutor had only *Intimated* what lay before him in that *Instrument*, and merely *published* the Adjournment contain'd in it. Had this been the Case, The *Intimations* of the Prolocutor would have been generally expres'd in the Lower House Books, as made *ex parte Reverendissimi*; which is a Phrase us'd in the Acts, \* when some thing is declar'd to them from the Arch-bishop; his Graces *Name*, and *Direction* would have been frequently, if not always mention'd in the *Continuations* made below; whereas there are not above half a Dozen Instances of that kind pretended; and those not difficult to be accounted for †, without supposing the Clergy included in the *Continuations* made above. Adjournments, by this *Hypothesis*, would have been mere *Messages* from the Arch-bishop to his Clergy; who would, consequently, have been told, from *Whom* the Message came, as well as *What* it contain'd.

\* See  
2 Nov.  
1586.

† See p.  
48, 49.

## The Case of the Schedule stated.

Had the Prolocutor, in his Intimations of Adjournment, only Executed the Schedule, he must have Executed it in all respects, without varying in the Circumstance of Place, any more than of Time, as being purely Ministerial, in what he did. And yet His Intimations of Adjournment are always to a Different Place \* from those Express'd, or referr'd to in the Schedule; and by such Adjournments the Clergy Meet alwayes in a Different Place from the Bishops: and cannot therefore be suppos'd either to Break up, or to Assemble, in vertue of the Arch-bishops Continuations.

\* 2 Dec.  
1586. Pro-  
locutor—  
prorogavit  
Locum hu-  
iusmodi us-  
que addit in  
Sacell-be-  
at a Maria--  
the Bishops  
at the same  
time ad-  
journing  
to the  
Chapter-  
House.

The Result of All is, that these Adjournments by Intimation can mean no more, than that the Prolocutor, as the Mouth of the Lower House, Intimates, or Declares its sense in that particular; and gives the Formal, Authentick Notice to it's Members of the Time at which their Attendance, in that place, is next expected, in order to their proceeding in the Business of Convocation.

† p. 59,  
41.  
No Absur-  
dity, that  
the Prolo-  
cutor  
should In-  
timate  
what the  
House al-  
ready  
knows.

It is Trifling to Object against this sense of the Word (as the Asserter of the Arch-bishop's Right doth †) that it makes the Prolocutor "Intimate to the House a Continuation Voted by it" which he thinks Absurd. For it is an Absurdity that equally takes place in All other Assemblies, where the Votes or Resolutions of the Body are Collected and Declar'd by the Chair-man; who alone gives the Authentick Signification of what is agreed upon in Common, and gives it to those very Persons from whom he received it. And so I find the word us'd, in the Acts of the Council of Basil. 7 Dec. 1431; when the Members, Composing the Council, met, and appointed a Session on Dec. 14; for there the appointment runs—*Ex parte—Presidentis—approbatione Sacri Concilii—Intimatur per presentes omnibus—in hoc Concilio interessentibus & interesse debentibus*, that the Session would be on such a Day. The Intimation is here given to those very Persons, by whose Consent it was made: and yet the Expression is not Absurd; because no Act of any Assembly can be binding to the Members of it, till it is formally declar'd from the Chair of it.

\* p. 57,  
38.

But he says, \* there are no Marks, in the Lower House Journals of such a Previous Determination and Consent, as the Prolocutor is suppos'd to Intimate. That I deny: for many of the Forms run (as we have heard) *Domini Prorogarunt—Domini Continuarunt, &c.* and in These, the Consent of the House, is not only Implied, but directly Asserted. And what else can the Act of May, 2. 1640 mean? where the Prolocutor makes his Substitutes, to read Prayers for him in the Upper House, &

*Votum & suffragium suum reddere pro Prorogatione proximè sequenti?* If He had a Right of Suffrage in Adjournments, so, to be sure, had All the other Members: for his Right could not be exerted, but when the Votes of the House were evenly ballanc'd. The Consent therefore of the Clergy was certainly given to the Prorogation made below; and thò it doth not appear from the Acts, that the Prolocutor askt it in Form; yet they who make this Objection would do well to consider, whether they can produce any One Entry Above, wherein the Bishops Consent is ever said to have been asked to the Continuation there made. I believe, they cannot; and must therefore allow, that the Proposal of such a Consent might be Made, where it is not recorded. But had the mention of the Clergy's Agreement to the Prolocutors Adjournment been totally Omitted in their Acts, it is no more than hath happen'd in the Journals of the Peers, where the Chancellor, in Thousands of Instances, Continues the Parliament, without any Mention of the Lords Direction or Concurrence; That being, in the Nature of the thing, always suppos'd, and understood, and therefore not thought necessary to be express'd.

It will be a sufficient Reply to all that can be objected against the Interpretation given of the Word, *Intimavit*, if we suppose the Lords Journals \* to have ran, *Dominus Cancellarius Intimavit Præsens Parliamentum esse Continuatum*; which is certainly a Form, more expressive of the Thing intended by it, than what at present obtains, and hath, for some hundred Years generally obtain'd, there; *Dominus Cancellarius Continuavit præsens Parliamentum*.

\* They run frequently, —*Cancellarius declaravit præsens Parliamentum esse continuandum*: and that the Words, *declaravit*, and *Intimavit*, differ nothing in sense, shall soon be shew'n.

For This, if we go no further than the Letter of the Phrase, seems to lodge the Adjourning Power Solely in the Chancellor; whereas the Other would imply him to act by Direction. Now had, I say, that Form of Adjournment been constantly enter'd in the Lord's Journals (as a less Proper one is,) would the Disputants in this Controversie have pretended to argue from the Intimation of the Adjournment, there set-down, that it was not decreed by the House it self, but by an Extrinsic Authority? And why then should they charge it with such a sense in the Books of the Lower House of Convocation?

The Phrase, *Intimata & Facta est Continuatio*, occurs there, for 14 Sessions together. The joynt Use of these Two Words explains the meaning of the Former. It is the same thing to say, the Continuation was Intimated, as that it was made; the One no more implying an Authority deriv'd from without than the Other.



\* 23 Nov. & 2 Decemb.  
1586. Decanus Litchf. [or  
Westm.] nomine Dom. Pro-  
locutoris Intimavit, [or  
Continuavit:] and So the  
2 Nov. 1640. the Prolocu-  
tor deputed one to ad-  
journ, *prose, & Jesus nomine.*  
† Rot. Parl. 25 E. 3.  
B. 1. 2.

If the Prolocutor's Intimation were merely *Executive* of the Arch-bishop's Commands, how could it properly be said (as it is several Times \*) that his *Substitute* adjourns in His Name? just as the *Arch-bishop's Commissaries* are said to Adjourn above, and as the *Kings Commissioners* are spoken of in the Rolls of Parliament †. To adjourn in the Name of another, implies, at least, the *Authoritative Declaration* of that Adjournment to be lodg'd in Him, in whose Name it is made. Whereas, were the Prolocutor only a *Deputy* in this Act, His De-

puty would not be said to Adjourn in the Name of Him, but of the *Person* from whom he *derives* his Power.

† 1b. p. 59. After all, it is acknowledg'd † that the words, *Declaravit*, or, *Pronunciavit*, if us'd, would have born such a sense: and yet it is certain, that, *Intimavit*, means neither less, nor more than these, *viz.* the *Declaring, Publishing, or Pronouncing* any Decree, or Resolution, of a Single Person, or Body; and is so therefore employ'd, in the Acts both of *Foreign, and Domestick* Councils, Times without Number. I shall give only One Instance, or Two of a sort, to prevent Tedioufness. In the Council of *Constance*, Sess. 39. The Pope is said, *Legitimè & Solemniter Publicare & Intimare*, when the next Council should be held—and so 1 Sess. *Concil. Basil—Per annum, ante præfixum Terminum, tenetur Pontifex publicare & intimare, &c.* A. D. 1452. the Clergy *Intimavit & declaravit* to the Arch-bishop, who it was, that they had chosen Prolocutor. [Reg. Kemp. fol. 221. a.] and soon after, the Great Men come from the King, *ad infra Scripta Intimanda & Declaranda* [Ibid.] The Words are *Synonymous*; and therefore equally capable of expressing the Resolution of the House, by the Mouth of their Prolocutor, without referring any ways to the Arch-bishop's *Schedule of Adjournment*.

Uniformity  
of Adjourn-  
ments no  
Proof of  
the Influe-  
nce of the  
Schedule.

The Operation of which upon the Lower Clergy is further Endeavoured to be prov'd by the *Uniformity and Concurrence of Adjournments* in Either House of Convocation. But here, the Matter of Fact it self, which supports this Inference, is not clear; or rather, is clearly mistaken. For a strict *Concurrence of Adjournments* can be prov'd only from *Concurrent Journals*, and there are Few such Remaining, in Comparison of those that are Lost. And even in the Remaining Journals there are several plain Instances of the *Inconformity* of the Adjournments made Above, to those below; and many Hints, and strong Presumptions of more; as shall be largely made out, under another

Another Article. And even a Few such Proofs, notwithstanding the Disproportion of their Number, are of greater Force and Moment towards establishing the separate Power of the Lower House, in this respect, than a Multitude of Instances on the other side can be to disprove it: because a Regular concurrence of Continuations, in most cases, may be accounted for otherwise, than by attributing it to the Authoritative Influence of the Arch-bishop's Schedule; whereas the sitting of one House without the Other, even in a Single Instance, can no ways be Solv'd, but by a recourse to a Separate Power of Adjournment.

It is said indeed, that this *Uniformity of Session* could not have happened by Chance; and therefore, that the Continuations below must have been adjusted to, and by the Schedule, and determin'd by the Authority of it. I have answer'd this, in Part, already, where I own'd that the General Coincidence of *Adjournments* on Either Side, was not *Casual*, but certainly owing to some Message sent, or Notice given from the Bishops. But then I added, that such Messages were not *Authoritative*, but *Declaratory* only of what the Arch-bishop and his Brethren had done; that the Clergy, when they thought fit to disperse, might have an Opportunity of Conforming their Sessions to those Above, for the readier dispatch of Synodick Business. For had these Accounts been directed to the Lower House, in a *Mandatory* way, they must needs have been enter'd in the Acts of Convocation, as a Proper and Regular step in the Execution of the Arch-bishops Schedule. Whereas, nothing of that kind ever appearing there, and the Schedule it self being never transmitted; the Adjournment made by it, could be notified to the Lower Clergy, only as an *Adjournment* of the Higher House, but not as including, and dismissing the Lower.

Had such Messages been frequently enter'd in the Records of Convocation, yet nothing could be grafted upon them, in prejudice of the Clergys Right to *Separate Adjournments*; because like Messages are often set down in the Elder Journals of Parliament, and the Effect of them is there declared to have been, that the Commons Comply'd with the Intimations thus given them from the Lords, and adjourn'd their House, to the very same Time; and yet certainly made the Adjournment, by their own Authority. Instances of this kind, in the Reigns of Queen Elizabeth, and King James, are frequent; and it may be worth while to transcribe some of them.

Messages  
about Ad-  
journ-  
ments in  
Parliament

Frid. 24 March. 1558. "For Weighty Affairs to be done this Parliament, according to the Example of the Upper House, this Court of the Nether House is, according to former Precedents,  
"ad...

"adjourned untill *Munday* the 3d day of *Apr.* next coming. This Entry is to be look'd upon, not as a *Single Instance*, but rather as a *General Proof*, that before this Time, the *Commons*, (whose Books begin with *Edward* the sixth; and have not, I think, in his and *Queen Marys* reign, above 5 or 6 Formal Adjournments recorded in them) did use generally to adjust their Days of Intermiſſion and Sitting to thoſe of the *Lords*. And I find therefore, in the Upper Houſe Book of the Convocation held at this Time, that the Joint-fittings of the *Lords* and *Commons* on the ſame days (then Customary) were ſtyl'd ſo many ſeveral *Sessions* of *Parliament*; as the fitting of the Two Spiritual Houſes is ſtill called a *Session* of *Convocation*. For on the 17th of *March* 1558, it is ſaid,—*Episcopus* London, &c. *continuavit in diem Craſtinum poſt Ultimam Sessionem Parlimenti ante feſtum Paſchæ*. And agen—*Quo die ſabbati, Vigiliâ Paſchæ, Craſtino, viz. poſt Ultimam Sessionem Parlamenti, viz. 25 menſis Martii, &c.*

When the *Commons* met on this Adjournment, *Munday April* the Third, it is ſaid, "For that this day is appointed to have "Diſputation before the Council, and *Lords*, in *Westminster* "Quire, &c. and for that it is meet that They of this Houſe "ſhould be there preſent, to hear; this Court was continu'd "untill the Morrow following,—as the Houſe of *Lords* alſo was; ſee their Journal. And *Their not fitting* on this day, is here referr'd to, as One Reaſon why the *Commons* adjourn'd.

*Tueſd.* 24 *Decemb.* 1566. "Mr. Attorney, and Dr. Lewis, "brought word from the *Lords*, that their Lordſhips had adjourn'd their Houſe until *Munday* next. Whereupon Mr. Speaker, with the Advice of this Houſe, adjourn'd the *Parliament* "untill *Saturday* next: and then it was Order'd that the Houſe "ſhould be Call'd, to ſee and conſider the Defaults. *Sat.* 28 *Dec.* "The Houſe was Call'd, and adjourn'd untill *Monday*. Here

† The Call of the Houſe was a ſort of Buſineſs, which the *Commons* in thoſe days, did, even when they were at Liberty to do little elſe; I mean, in the Abſence of their Speaker. Of which take this remarkable Precedent. *Lune* 7th. *Nov.* 5th *Parl.* of *K. Ph.* and *Q. M.* "For that the *Queen's* Maſteſty hath Commanded Mr. Speaker to attend about weighty affairs, *This Houſe* is adjourn'd untill *Wednesday* next; ſaving that the Houſe "ſhall be called to morrow in his Abſence.

*Mund.* 30 *Dec.* 1566. "This Day the Houſe was call'd, "and Adjourn'd further till *Thursday* next, becauſe the *Lords* Above had ſo Adjourn'd. *Thursday.*



## The Case of the Schedule stated.

71

Thursday 2. Jan. 1566 " Dr. Huick sent in word from the " Lord Keeper, that the Lords had Adjourn'd till One of the " Clock afternoon.

11 Jun. 1572. *Dominus Custos magni Sigilli ex Mandato Domine Regine adjournavit presens Parliamentum usque in 24 diem Junii*, Journ. Proc.

Below, " Mr. Dr. Huick, and Mr. Dr. Vaughan did bring " word from the Lords, that having understood the Queens Majesty's Pleasure to be, that they should adjourn their Sessions " untill Tuesday come Sevensnight, they did signifie the same unto this House, to the End this House may likewise adjourn " to the same time; and nevertheless to continue the Session in " this Fore-noon, and send unto them such Bills as are already " passed this House, or shall pass this Fore-noon.

Many Instances of this kind there are, where the Adjournments were made by *Direction* from the *Crown*. But these, tho the *Direction* came to the *Upper House* alone, yet do not fully reach the Point I am at; and therefore shall not be enlarg'd upon. The Reason of my offering This, is chiefly, because the *Commons* Continuing to sit on this very day is, in their Own Journal, ascrib'd to the Notice they had from the Lords, that *They* also would sit.

1 Jac. 1. At the Entrance of the Parliament, " there was some " Question, whether this Court (*viz.* the *House of Commons* " alone) might of it self, and by it self be adjourn'd. And thereupon a Precedent in Queen Mary's Time cited by Sr. E. Hobby, " and resolv'd by General Opinion, that it might. And so the " Session was adjourn'd till 8 of the Clock next morning. [Journ. Dom. Com.] If such a Doubt as this could be started in the Commons House so low as James the 1. time, we may be sure that before this time, the *Precedents*, of One Houses sitting without the Other, were not frequent; as indeed we may futher guess from Sr. E. Hobby's producing but One of them.

30. Jan. 1607. " The House appointed to sit in the afternoon; the rather, because it was inform'd, the Lords do sit, " and meant to send down some Bills.

Three Other Instances, of this Kings Reign, enter'd in the Lords Journals, on March 22. 1620, May 17. 1621, and May 29. 1621. are produc'd, P. L. H. p. 19. col. 2; and need not be here repeated. And I question not but a Careful Inspection of the Books of either House, would furnish us with more of them. Tho it is not to be expected, that they should Abound there in any great Number, because Parliaments usally sat *De die in diem*, and

and there being no Interruption of the Continuance of the Session Above, consequently no Notice could be given of it. However, the Instances I have produc'd, are sufficient to shew, that a Regular and Ordinary Correspondence of Adjournments between Two Houses, composing One Common Assembly, is no Proof, that the Houses themselves were not severally adjourn'd by their Own Act and Authority. Nor do Messages, on such occasions, from an Higher to a Neither House imply, that the Lower Body is determin'd by such Messages to forbear sitting, till the Other meets; but are Designations only of the Time, till which the Intercourse between the Two Houses, in order to a joynt dispatch of Parliamentary [or Synodical] Business, ceases, and at which it is to be resum'd. And such Notice properly came from the Lords, both because of the Dignity of their House (by which they still claim (I think) a Priviledge of appointing Time and Place for the sitting of Committees of Both Houses,) and because, whenever the Lords sat, the King might be present in Parliament, and expect the Attendance of the Commons. The Custom, and the Reason of that Custom, was the same in Convocation; where the Bishops gave Notice, below, at what time they next intended to Meet; that the Clergy might be sitting in their Own House, at the same Time; ready, either for any Conference with the Bishops, to which they should be call'd, or for passing any Canon, or Sentence, which should then be ripe for a Synodick Determination. And this Parallel was still more Exact, when the Legat Born claim'd (as he antiently did) the same Prerogatives, and had Just the same Powers in Convocation, as the King had in Parliament: for then the Clergy came to their Own House, on the Synodick Day, prepar'd to attend the Call of of their Ecclesiastical Sovereign. But, notwithstanding this Concurrence in the Common Session, to which they were, (and are still, I own) oblig'd; yet the Notice from above, by which they directed themselves in this point, was, (considering them as an House) by way of Information only, not of direct Authority; and neither dismiss'd, nor re-assembled them, but by the Intervention of their Own Act, at their Own Time, as they saw proper; just as the Case was heretofore in Parliament. Of which, I say, there needs no other Evidence than this, that tho such Notice was always regularly given from the Bishops to the Clergy (for how else should the Latter have made their Sessions Conformable?) yet the Acts of Convocation are wholly Silent concerning it; as they could not possibly have been, had such a Notice of the Adjournment made Above, included or directed a Continuation of the Other Body.

'Tis true, the Adjournments of the House of Peers were (In the Times I am speaking of) less *Solemn* than those of the Arch-bishop; the One being made by a short *Entry* alone in the *Records* of the *Upper House*; the Other, by a Formal *Instrument*, or *Schedule*. But this makes no Difference, as to the *Influence* of Either on the Lower Bodies concern'd; because the *Schedule* being never *transmitted*, could really Operate no otherwise than a Bare *Entry* made in the *Acts*. And therefore, after it began to be practis'd, it was left off, and reassum'd; and still the Influence of the Arch-bishop's Adjournments extended as far, and no farther, under the One method, than the other. Had indeed this Instrument been all along *Sign'd*, and *sent down*, and *published* in form below (as was once pretended,) *These* Circumstances in the *Execution* of it, would have made it probable, that the *Concurrence* of the Lower House Adjournments was owing to the *Immediate Operation* of it. But it being *read* only *above*, and *detain'd* there, could affect the Lower Clergy no otherwise than a Bare *Entry* in the Upper House Acts would have done: It could take place upon them only by way of *Notice*, or *Message*; which, what force it had in determining the Adjournments below, I have already consider'd; and shall yet further explain upon my

Vth. General Head, wherein I am to declare the Method after which the Clergy pay'd their *Obedience* to the Arch-bishop's Adjournment, (whether *with a Schedule*, or *without it*) and the Liberty of sitting in *Intermediate Hours*, or *Days*. Which they took, notwithstanding it.

Without looking in to Precedents, one might easily be satisfi'd, that such a separate Body of Men as the Clergy of the Lower House are, cannot reasonably be presum'd under a restraint of sitting at such Times only, when the Upper House sits. The *Nature* of their *Business*, and their *Numbers*, will not admit of such a supposition. Whatever is to pass into a Synodical Act, must be layd before them, debated, and concluded by them, apart, in their Own House; and thus far they are equally employ'd with the Bishops. But that which makes the Difference is, that the Preparation of a great part of Convocation business properly belongs to them; The Drawing up of the *Gravamina*, or *Reformanda* of Ecclesiastical Cognizance, is their Peculiar Province; and with them anciently all *Subsidies* began, which they gave, not only in what *Quantity*, but with what *Conditions*, and *Restrictions*, they pleas'd. And the preparing and Digesting these Resolutions, was a Work of some Time and Deliberation: but when these were afterwards layd before the Bishops, they receiv'd a quicker Dispatch; the Numbers of the Upper House



*The Case of the Schedule stated.*

(after the Abolition of the Regulars) being Few, and their Obligations to attend on the Parliament being frequent: so that the Clergy, when they came up to Convocation, having somewhat more to do than the Bishops and having nothing else but that to do, and having (as indeed they wanted) more time for the Doing it; can not be suppos'd under so absurd a Confinement, as to be bound strictly to observe the Hours of their Lordships sitting and Rising. Had this been the case, we should frequently have found them *present* at the Upper House Adjournments: for (upon the Principles of those Writers with whom we contend) No rational account can be given, why One House should be dismissed, all along, for 200 Years past, separately from the Other, if Both were to rise Together. The Clergy might retire, for the Freedom and Convenience of Debate; but if their Debates were interrupted immediately by the Adjournment made above, they might as well have gone up and been personally present at the Adjournment, as have stay'd in their own House, to receive a Message concerning it. There could have been no *Need* of preserving the Formality of Adjourning below, nor indeed any *Use* of it; but because the Clergys Debates were us'd to be protracted beyond those of the Bishops, and the Session therefore could not end at the same time in Both Houses. At least, when ever the Clergy hapned to attend in the Upper House, at the very Close of their Session, they would not have retir'd from thence, just before the Schedule was read there; Nor would it have been said (as it is often in the Registers) that, *Dimisso Prolocutore*, the Arch-bishop adjourn'd, \* without entering on any New Business, or Debate whatsoever.

\* See five Instances of this, between the 13 and 28 of May, 1640.

But we need not have recourse to *Probabilities* and *Presumptions* in this case, when there are so many plain and express Proofs still left, which I shall now lay before the Reader. I shall take them from the Arch-bishop's Registers, and the other Journals of Convocation, according to the Order of Time in which they ly; not pretending to exhaust the Subject, or to produce *All* the Instances that may be found there, but to offer such only as the Extracts, I formerly made from those Books, will at present furnish me with. When I have set down the *Precedents* themselves, I shall add some *Reflections* upon them; and, after taking off those *Exceptions* and *Colours*, with which the Writers on the other side endeavour to escape, or disguise the force of them, shall briefly apply all to the Case of the *Schedule*, and the *Interpretation* I have given of it. 'Tis the Main Article, upon which the whole Dispute about the

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the Influence of that Instrument turns; and therefore a Nice and Particular account of it will not (I hope) be Improper, tho (I fear) it may be Tedious.

1356. May 17. Dominus continuavit Concilium hujusmodi, & omnia expedienda in eodem usque diem Crastinum—ac injunxit Religiosis, & aliis de Clero quod—tunc—proponerent Petitiones suas. Quo die Crastino—propositis quibusdam Petitionibus per Clerum, tam Viva voce, quam in Scriptis, &c.

Precedents  
of Interme-  
diate Hours,  
or Days.

May 21, Facta Suasione per Dominum, &c. dicto Clero, quod, Consideratis Expositis ei pro parte Regis, super meliori Responsione deliberarent usque diem Martis tunc Crastinum, idem Dominus—Concilium hujusmodi, & Expedienda in eodem, Continuavit in statu quo tunc fuere—ad diem prædictum.

1369. 11 Kal. Feb. Dominus—rogavit dictos Religiosos, quod se insimul traherent ad aliquam partem Ecclesie—& Clerum sue Dioc. & Prov. quod ad aliam partem ejusdem Ecclesie se traherent, & tractarent, & deliberarent de Petitione prædicta—Et, deliberatione habitâ de eâdem, sibi referre de voluntate eorundem in dictâ domo Capitulari, die Crastino—and then adjourn'd. Next day, the Clergy bring up the Business finish'd.

\* 10 Kal. Feb. [Wednes.] Dominus—voluit quod Clerus & Religiosi—Petitiones suas super dictis—Gravaminibus in Scriptis redigerent, & sibi porrigerent die Veneris, in Capellâ prædictâ—ita quod super eis cum suis Confratribus poterit consulere & deliberare, & eas, habitâ deliberatione hujusmodi, unâ cum concessione Decimæ biennalis—Domino Regi intimare: & assignavit dictis Clero & Religiosis diem Sabbati prox. sequ. ad comparend coram eo in dictâ Capellâ horâ primâ, Voluntatem Regiam super dictis Petitionibus, & etiam Grates Regias pro dictâ Concessione, quas reportabit, audituris. Et ad hoc faciendum continuavit dictam Convocationem ad diem Sabbati supradictum.

\* For this, Passage, I rely upon Dr. Hody's Print. There is something faulty either in That, or the MS.

1371, Apr. Admonens Prælatos & Clerum quod super Petitione prædictâ tractarent & deliberarent, Prælati, viz. per se, & Religiosi & Clerus per se. Et dictum diem Jovis ad diem Veneris prox—quoad Tractatum Convocationis—prædictæ, Prorogavit & Continuavit.

28 Apr. Dominus Lond. præcepit dictis Religiosis & Clero, quod tractarent inter se, & Continuavit.

1373. 4 Non. Dec. The Clergy were injoin'd, quod deliberarent & tractarent inter se de aliquo Competenti subsidio—& quod Interim formarent Petitiones suas super reformatione Injuriarum hujusmodi, & eas conciperent in Scriptis—and then an adjournment to the next day.

1379. 5 Id. Maii. Reverendus Pater precepit Procuratoribus prædictis quòd die Jovis—convenirent ad invicem—tractaturi—super materiâ Convocationis prædictæ. Et dixit quòd Ipse & alii Confratres sui revenirent die Veneris—ad effectum tractandi materiâ Convocationis prædictæ. Quo die Veneris, &c.

16 Kal. Jun. Dominus monerifecit publice Procuratores Prælatorum & Cleri—ut die Merc.—in dictâ Domo Capitulari comparerent—deliberaturi & tractaturi de modo subventionis prædictæ. Et continuavit hujusmodi Negotium, quoad Comparitionem Ipsius, & Prælatorum ac Procuratorum Cleri, usque in diem Veneris.

13 Kal. Jun. Dominus præfixit—Procuratoribus ad comparend in Domo Capitulari Diem Veneris post prandium, ad plenius tractand super præmissis, & continuavit Negotium dictæ Convocationis usque ad diem Sabbati prox.

1399, 11 Oct. Quia dicti Domini deberent circa ardua Negotia—13<sup>io</sup> die mensis occupari—ideò Continuavit ad 16. Et quia Articuli neque ex parte Prælatorum, neque ex parte Cleri fuerant omnes pleni, seu deliberati, mandavit idem Rev. Pater quòd Interim dicti Procuratores Cleri deliberarent, & Articulos plenos illo Terminò, si voluerint, proponerent. Adveniente verò illo die, the Clergy brought in their Grievances by Maydénbith, their Prolocutor.

1406. 14 May. The Archbishop—propter varia interim pertractanda & expedienda in Parlamento, adjourn'd to the 21st—& demandavit aliis Prælatis & Clero tunc ibidem presentibus, quòd singulis diebus interim ad dictum Locum convenirent, & laborarent circa reformanda in Cant. Prov. & exinde Articulos conciperent in Scriptis redigendos.

16 June, in the Morning, Reverendissimus, propter varia interim communicanda in Parlamento, Continuavit ad horam Tertiam. Quâ horâ adveniente—Procuratores Cleri exhibuerunt quosdam Articulos—

1411. 2 Dec. Archiepiscopus mandavit Procuratoribus Cleri, quatenus, si aliqua essent Gravamina ex parte eorum reformatione indigentia, quòd vellent & deberent—coram Convocatione Dominorum in dictâ Domo Capitulari seriòsius intimare. And, because the next Day, He and his Brethren were to be in Parliament, adjourn'd to Dec. 4. When coram Archiepiscopo & Confratribus in Domo Capitulari congregatis comparuerunt Procuratores Cleri, qui plura referebant Gravamina—

1424. 16 Oct. Recedentibus Procuratoribus in Domum Inferiorem Clero pro Tractatibus habendis in Convocationibus antea celebratis solitam assignari—statim postea Dominus Continuavit Convocationem suam hujusmodi in diem, &c.



1426. 16 Apr. The Arch-bishop petiit à Clero ut deliberarent, &c. Et habitâ aliquali deliberatione super hoc, Dominus assignavit Procuratoribus Cleri prædicti, ut post Prandium ejusdem diei in Domum Inferiorem eisdem consuetam se colligerent, & super hujusmodi negotio invicem communicarent. Et tunc continuavit Convocationem suam usque in Crastinum. Quo quidem die—Dominus cum Confratribus suis—in dictâ Domo sedens Capitulari petiit à Clero utrùm ad tunc plenè fuissent deliberati—Quiresponderunt quòd pro tunc non plenè fuerant advisati, &c.

1429. Oct. Die Veneris—Dominus—Clerum exhortabatur, ut ipsi de tempore in tempus, pro tempore absentie Domini, convenirent, & circa materias hujusmodi & alias Convocationem hujusmodi concernentes intenderent diligenter. Quibus sic gestis, Dominus continuavit Convocationem usque in diem Lunæ prox.

1432. 16 Sept. The Arch-bishop desir'd the Lower House, ut insuper bene & maturè ac cum deliberatione Avisarent, quomodo in materiâ prædictâ, & sub quâ formâ esset procedendum. Et sic, sub deliberatione in hac parte habendâ, Continuata fuit Convocatio per Dominum usque in Crastinum. Et eodem die—adhuc sub deliberatione continuata extitit Convocatio usque in diem Jovis.

1433. Nov. 10. The Arch-bishop advis'd with the Lower House upon several matters of great Importance—præcipiens eisdem quatenus circa eadem Motiva, cum aliis ab eisdem dependentibus, usque ad diem Jovis tunc prox sequ. viz. diem 12 Nov. diligenter & unanimiter laborarent : usque ad Quem diem Dominus continuavit Convocationem.

1 Dec. Post illas Solutiones & Conclusiones à Clero datas—Reverendissimus—injunxit eidem Clero, quatenus collaborarent & previderent ad Negotium domini Regis. Et sic continuavit Conv. suam usque ad 3 Dec.

10 Dec. Clero prædicto Dominus mandavit, quatenus circa præfatum Subsidium domino Regi concedendum diligenter collaborarent. Et Continuavit Convocationem suam in crastinum.

1434. 20 Oct. Dominus—Mandavit Thomæ Bekynton [the Prolocutor] & aliis diversis de Clero, ut Articulos illos de Generali sententiâ, quæ consueta est quater in anno per Curatos Ecclesiarum publicari & solenniter denuntiari, conciperent in Linguâ maternâ—Et ipsos coram Eo & Confratribus suis—exhiberent die—  
22 Oct. Ad Quem diem continuata erat Convocatio.

1439. 24 Nov. Die Martis, Dominus decrevit Copias fieri [of the Pope's Bull] & ipsis de Clero Domus Inferioris liberari, ad effectum ut Communicatio habeatur inter eos de modo & formâ Executionis

*ecutionis ejusdem. Et, hiis sic dictis, continuata erat Convocatio, usque in diem Jovis tunc prox.*

26 Nov. Die Jovis—Dominus mandavit Prelatis & Clero quatenus super præmissis, & aliis Materiis quibuscunque reformatione necessaria indigentibus [viz. qualiter illud Breve de Præmunire facias, & ipsa falsa Indultamenta, &c. Finaliter extingui valeant, nec non super quibus modo & formâ Indulgentia—Executioni debite demandari valeat] diligenter inter se communicent, ac Billas & alia Advisamenta in hac parte necessaria ad præmissa reformanda conciperent. Et, statim hiis dictis, Continuata fuit Convocatio usque ad diem Martis tunc prox. Quo adveniente, the Clergy bring up their Resolutions; and the reading of them, was the first thing done in the Chapter House, that Session.

11 Dec. A Synodical Constitution brought up by the Prolocutor. Post aliqualem deliberationem habitam super eadem inter dominos Episcopos & Prelatos Religiosos de Domo Superiori, tandem ipsis de Clero Domus Inferioris pro certis in eadem reformandis, nec non pro Avisamento & Deliberatione in hac parte capiendâ extitit Liberata. Et deinde continuata fuit Convocatio usque ad & in 14 Dec.

1460 13 May, Die Martis, Propositis coram Reverendissimo—& aliis in dictâ Domo Capitulari ibidem existentibus quibusdam Articulis per Prelocutorem vivâ voce, dictus Reverendissimus—decrevit hujusmodi Articulos—in Scriptis redigi. Et deinde Continuavit Convocationem usque ad & in diem Mercurii, ad Locum & Horam consuetam.

16 May. Lectâ hujusmodi Literâ—Reverendissimus—decrevit eandem in Domo Inferiori publicè legi. Et deinde Continuavit—

Reflections on these Authorities.

Thus far, out of the Old Acts of Convocation, enter'd in the Arch-bishop's Registers. I shall stop here, and make some Reflections on the Passages produc'd, e're I proceed to more Modern Precedents.

(1.) Nothing, I think, can be plainner, than it is from these Instances, That by the Original Constitution of our Synods, the Inferiour Clergy, as Forming a distinct Body, or State of Convocation, consulted usually and acted by themselves in the Intervals of the several Synodick Sessions. The Arch-bishop, (whether peremptorily, or by Consent, I shall not now Dispute) did præfigere diem, ad comparendum coram ipso \* or ad Intimandum Voluntatem

here omitted. 7 Kal. Feb. 1369.—Præfixit Procuratoribus ad dictum diem Martii ad comparandum coram Domino in dictâ Domo Capitulari. 4 Id. Feb. 1376. Dominus—Convocavit coram eo Procuratores Cleri, & præfixit eis diem Jovis tunc sequ. ad comparandum coram eo in dicto loco. 6 Kal. Dec. 1377. Archiepiscopus—præfixit dictis Prelatis & Clero diem Veneris—ad comparandum.

*comparend. coram eo in dicta domo Capitulari*—ad intimand' Voluntatem ipsorum, &c. All that the Arch-bishop even then Claim'd, was, The Attendance of the Clergy, at the Day and Place prefixed in every Session: And more than this, he could not Claim by the Words of his Mandate (which these Passages seem to have an Eye to;) taking them in the most rigorous and Extended Sense of which they are capable;—*ad comparend. coram Nobis* (at such a Time and Place) *in Continuatione & Prorogatione Dierum & Locorum tunc sequentium, si oporteat.*—But their Sitting and Debating, as a separate Body, in the Intervening space, was a Point he took no Cognizance of, and in which he had no Pretence, nor ever made any Attempt to restrain 'em.

*Ipsorum, et quoad Comparitionem Ipsius, & Prælatorum, ac Procuratorum Cleri* \*; that is, He appointed the Day, and Hour for the Com-  
mon Appearance of all the Members, and at which the General Assembly of the States of Convocation should be Held. But the Lower Orders, by this Suspension of the Synod, properly so called, were not restrain'd from Acting, *intermediatly*, as occasion required; but did then chiefly prepare, and ripen all the Business, which they afterwards lay'd before the Arch-bishop, in full Convocation.

In York-Province the Custom was the same, as appears from the Acts of a Council there Held A. D. 1310, and 1311, and enter'd in Arch-bishop Greenfield's Register. When the Formalities of Opening it, on May 20, were over, the Acts, which run in the Arch-bishop's Name, say—*usque in Crastinum duximus deliberandum*; *Præficientes eidem Clero nostro eundem Crastinum coram Nobis in Capitulo nostro Eborum, ad proponend' dand' & exhibend' in Scriptis Articulos, & Capitula contingentia statum & Correctionem Ecclesiarum & Ecclesiasticarum Personarum, & alia quæ in hoc Concilio nostro debent & poterunt reformari.* Quo die Crastino, *in Capitulo*—*præfato Clero coram Nobis comparente*, the prepar'd Articles were read. And again, 9. Kal. June 1311. when the Council met *de Novo*, and was Adjourn'd to the next Day, the Clergy are requir'd, in the very same Words almost, to make their Proposals of Reformation on that Day, and to give in their Answer about a Subsidy: which therefore were to be Concerted and Resolved upon, while the Synod was under an Adjournment.

There is but one Old Convocation more, whose Acts are in that Province preserv'd. It was Held by Arch-bishop Kemp, A. D. 1426; and in those Acts it is said, That, after the Causes of the Convocation were declar'd, *Communicatis per Dominos Presidentes certis arduis materiis in Civ. Dioc. & Prov. Ebor. tunc noviter exortis & emerfis, & eisdem materiis Prælati & Clero publicè expositis & declaratis, Domini Præsidentes affectarunt & mandarunt ut Prælati & Clerus prædicti super HIIS & ALIIS infra Ebor. Prov. Auctoritate ipsius Sacre Conv. meritò corrigendis & reformandis usque in Crastinum, bonâ cum Maturitate, deliberarent,*

\* 16. Kal. Jun. 1377.



liberarent, & ad ea reformatanda sanum eorum Consilium ipsis Presidentibus impenderent & ministrarent. [Then Adjourn'd to the next Day; When] Seditibus loco quo supra Commissariis, comparuerunt, ut prius, Prelati & Clerus ac Referendarius antedicti. Qui Referendarius, suo & Prelatorum, & totius Cleri nomine, exhibuit ibidem—quosdam Articulos Erroneos, Hæresim, ut apparuit, sonantes; which must therefore have been prepar'd, when the Arch-bishop's Commissaries were risen.

This therefore was the Antient, and ordinary Practice of Convocation, as far back almost as we have any Memoirs of it, in Either Province: and for that Reason.

(2.) I have not bounded my Enquiries, and Citations within the Time, when the Clergy first came to have a *fixt Prolocutor*, and to act in a *Compleat state of separation* from the Greater Prelates; but have carried my Accounts somewhat higher: which yet I take to be as Instructive and Pertinent, as if they had belong'd to Later times. For if even *Then*, when the Clergy were not as yet a *Separate House*; and distinguish'd by *All* the Forms and Methods of Proceeding, which afterwards obtain'd, they yet sat and acted *apart*, as a *Separate state*, and were not interrupted in their Debates by the Adjournment of the Synod; 'tis highly reasonable to believe, that the Further Separation of them, afterwards effected, did not ty up their Hands more strictly in this respect; and that they were not less at liberty to sit and act *intermediately*, by becoming a *Distinct House* and having a *Stated Officer* at the Head of them.

(3.) The Reader will perhaps observe that some of the Instances relate to the Lower Houses sitting, not on Intermediate *Days*, but *Hours* onely; and come not up therefore, in all respects, to the Liberty claim'd. But, in truth, the One of these is as good and full a Proof as the Other. For they who sat on the *Same* Day, as long as they pleas'd, after the Bishops were up, might have sat on any *Other* Day, when the Bishops did not sit. If they still subsisted as an *House*, or *Separate state*, notwithstanding the Synodick Adjournment, they were capable of meeting, as such, in any part of the Interval between Session and Session. Nothing but their *Own* Act could determine their sitting, after the Bishops were risen; and by the same Power that they determin'd it, One day, they might have resum'd it, Another. In many of the Instances, there was a distance of *several days* between Session and Session; on *Each* of which the Clergy sat and consulted: and the Times therefore of their Sitting and Rising must have been in their own Power, and order'd by their Own Act of Adjournment.

(4) This

(4.) This frequent Protraction of the Clergy's Debates beyond the Hour of the Synodick Session, may perhaps be one Reason, why we hear so little, in the Elder Acts, of their *Consent* to Synodick Adjournments: for when the Upper House rose, They still sitting on, could explicitly concur in the Adjournment, *apart* only, and at their Own Time, when their Business was over. And when they rose *with* the Upper House, and are said to have been *present* at the Continuations there made, their *not dissenting* from them imply'd a *Consent* to them, as I have elsewhere observ'd. The

(5th.) and Last Reflection I shall make on these Passages, is, that they furnish us with a much Stronger Evidence for the Lower Clergyes Right of Sitting and Acting Intermediately, than can be produc'd from the Records of Parliament, in behalf of the *Commons*. The Old *Rolls of Parliament* are, in respect of that High Court, what the Arch-bishops *Registers* are, in relation to our Synods; that is, each contains an Account of what pass'd in the Upper House of the Two Assemblies. And the successive series of the Acts, enter'd in the One, Begin, and End, much about the same time with the Records of the other. Now, if we consult the *Rolls of Parliament*, we shall find little or nothing there to assure us of the House of Commons Sitting, but at such times when the House of Peers actually Sat. The *Parliament* is, in those Records, said always to be *Adjourn'd*, *Prorogu'd*, and *Dissolv'd*, Above; but no notice is taken of the Commons adjourning themselves separately, nor indeed scarce of any thing they did as an *House*, but when they appear'd at the Barr of the Lords, and Lodg'd their Resolutions in full *Parliament*. But this Silence of the *Rolls* is not thought an Argument, that the Debates of the Commons were not lengthen'd out often beyond those of the Peers, and carried on sometimes on Days when perhaps the Upper House intermitted to sit. And yet, tho' Precedents of this kind abound in the Registers of Convocation, Their plain Evidence will not be admitted in behalf of the Lower Clergyes Right, to Sit and Rise at Discretion, within the Intervalls of the Arch-bishops Adjournments.

So much for the Antient Precedents, I proceed now to consider the Modern ones; beginning from the Convocation of 1529, where the Extracts from the Upper House Books begin.

The Argument, from the Silence of the *Registers*, certainly False; because, if apply'd to the *Rolls of Parliament*, it would equally affect the *House of Commons*.

Modern Precedents of Intermediate Days or Hours, from 1529, downward.

## The Case of the Schedule stated.

The First Act of the First day of that Convocation has these words in it, [Friday Nov. 5.] *Reverendissimus monuit Inferiorem Domum, &c. quod in die Lunæ prox. sequ. vel in Crastino, conferant se in Locum consuetum— ad eligendum suum Prolocutorem. Quo die [i. e. on Munday] presentarent eum Reverendissimo, & suis suffraganeis. Quibus peractis, Continnavit dictam Convocationem in diem Lunæ prædictum.* Here the Clergy are warn'd to choose a Prolocutor either on a Synodical, or Intermediate day, as they thought fit; because their House was then known to have a Right of Assembling indifferently on Either. At other Times, they made this choice generally on the First day of the Synod; but even then, in an Intermediate Hour, and not till the Upper House was risen. I shall lay the Proofs of this Point together (because it is of Moment) e're I go on in a Regular Deduction of the Remaining Precedents.

\* The English Directory of 1562 adds the Circumstance of appointing one to receive the Bishop's Certificates, &c.

By Arch-bishop Cranmers English Directory for the Synod of 1547 it appears, that after the Clergy, on the first day, had left the Upper House, nothing was to be done there \*, besides the Arch-bishop's pronouncing Contumacy and Adjourning; and the Upper House Act of that day strictly answers to this direction: for, as soon as the Clergy are bid to choose their Prolocutor, and present him on Friday next, it follows, *in quem diem prorogavit Synodum, reservatâ penâ Contumaciarum omnium absentium.* The Bishops therefore rose immediately, upon the Retirement of the Clergy; whose Business below lasted for some time afterwards, as is manifest from the several steps of it. They assum'd an *Actuary*, and made a *President* for the Election; He notify'd the Arch-bishops Directions to them, they call'd over their House, the *Actuary* set down the Names of those that were present; they chose a Prolocutor first; and afterwards, Two Others to present him, and directed the Attendance of All the Members at the Time and Place prescribed. The Expediting of these Forms, was a Business of some Time; and it was not enter'd upon, I say, till after the Upper House had Adjourn'd. And whoever consults the Acts of June 9. 1536. Jan. 20. 1541. 3 Apr. 1554. Nov. 13. 1554. Octob. 22. 1555. Jan. 27. 1558. Jan. 13. 1562. and Jan. 21. 1628 †, will find, that the Case was much the same in all these Instances;

† This instance is not to be met with

in the Common Extracts, and therefore I shall Transcribe it. The Arch-bishop commands the Clergy to choose, and to present, on Jan. 30.—*inter horas 2 & 4 post merid. in hoc loco.* Deinde dictus Reverendissimus Pater, cum consensu Confratrum suorum prædictorum continuavit, &c.

and



and that, whatever the Clergy did, on those days, was done *after* the Bishops were risen. The Convocations of 1640 first chang'd the Practise in this respect: for there the Bishops stay'd, till the Clergys Choice was over, and had the *Report* of it made to them, before they dispersed. And this Precedent was in 1661, but not in the Later Convocations followed. So that, if the very first Business which the Lower House set upon, was all along transacted in an *Intermediate* space, we may be sure, that, in the succeeding Sessions, when they had more to do, their Debates were not more stinted. To return to the proofs of it—

1529. Mund. Nov. 8. *Monitus est Prolocutor cum Clero ut redirent ad Domum Infer. Et ibi tractarent de Rebus Synodi; Et quod Compaterent proximo die Veneris, Loco, Et Horâ, &c. Et sic Continuavit, &c. cum verbis in Scripto, quod Scriptum ibidem sequitur.*

Nov. 15. Mund. *Reverendissimus* [after a Long and Punctual Account of what had pass'd in the Upper House, that day] *monuit Prolocutorem ut rediret in Domum Inferiorem, ut conciperet Articulos de Abusionibus. Quibus factis, Reverendissimus Continuavit usque ad diem Veneris—Quo die—intravit Prolocutor cum Copiosâ multitudine de reformatione.*

44. Sess. Thursd. *Reverendissimus misit per Mag. Beddel Librum Concessionis dicti Subsidi ad Prolocutorem, ac etiam Libellum quarundam Constitutionum examinandum. Et Continuavit in diem Sabbati. Quo die intravit Prolocutor, Et petiit dilationem super eisdem Constitutionibus legendis—Et Rev. concessit usque in prox. Sessionem. Ubi prolocutor, &c. Exposuit errores in Testamento Magistri Thraci. Et Continuavit in diem Lunæ.*

In the same manner, and in much the same words, Business was recommended to the Lower House, by the Upper, just as they were rising, in the 47th, 48th, 58th, 79th, 80th, 97th, and 104th Sessions; and they were desired to dispatch it, against the next Synodical day, that is, in the *Interval* between Session and Session. The Passages, tho' very Full and Home to the Point, yet lying in the *Common extract*, to *That* I shall refer the Reader, without transcribing them.

Another Extract furnishes us with these Instances from the Acts of the same Convocation.

77. Sess. Tuesd. "The Arch-bishop being personally present, were read publickly *Quædam Statuta sive Ordinationes, viz. de Qualitate Ordinandorum* [and on 8 other very important Heads] "A Coppy of which was sent by *Bedyll* to the Lower House, "and an Adjournment made to *Thursday*.

*The Case of the Schedule stated.*

Frid. 12. Apr. 1532. "The Prolocutor and the Lower House consulted with, [about the Commons supplication], and with "all inform'd, *quod Regia Majestas celerem & maturam expectavit Responſionem ad eandem.* The Book committed to the "Prolocutor to be considered of till Munday, and They then do "deliver to their Opinions. Which in the Ordinary Extract runs—*Quem Libellum tradidit Prolocutori ad perlegend', ut ostenderet Opiniones suas de eodem.* Et continuavit usque in diem Lunæ.

18. Nov. 1534. "The Prolocutor being sent for up, Reverendissimus habuit tractatum de repressione Librorum in Linguâ "Vulgari Anglicanâ impressorum. And certain Books distributed "among them to be examined. The Other Extract adds—*Et Voluit ut Certificetur de Opinionibus suis in diem Merc. viz. 25. Nov.*

6 March 1535. Mund. "The Bishop of London's account "is deliver'd to the Prolocutor by the Arch-bishop, & voluit "eundem Dominum Prolocutorem, &c. dictas Schedulas sive "Libellos examinare. The House Adjourned till Friday "March 10. And then the Prolocutor and Clergy require further Time, *ad examinand' & rimand' hujusmodi Computum,* "allegans Negotium Computi prædicti esse arduum & magni "momenti, &c.

I have set down these Instances thus at length from the two Abridgments, because they belong All to a Convocation, in which we first certainly know, that the Schedule was practised; and are therefore an Undeniable Proof, that it was never intended to dismiss any, but the Upper Part of the Synod; or to bar the Lower House from Sitting in Intermediate Days, or Hours, as Business requir'd, or their Own Convenience would allow them. What hath been, or can be offered, to prevent the force of this Inference, shall be considered in its proper place. In the mean time, I only add, That like Instances are not wanting in the Acts of succeeding Convocations: Particularly, the later Extract I mention'd, in the Synods of 1539 \*, 1540 †, and 1543 ‡, furnishes us with Six of them. The more Ancient Extract, Jan. 28. 1557, says,—*Monuit Locumtenens Prælatos Inferioris Domûs, ut ipsi exhiberent in Scriptis quod reformandum putarent*—proximo die. Deinde prædictus Locum tenens ex assensu Patrum Continuavit.

The Bishop's Register, March 1. 1562——*Reverendissimus tradidit eidem Domino Prolocutori Librum prædictum, mandando quod, additis hujusmodi Capitulis sic Excogitatis, ipsum Librum cum Additionalibus prædictis denuò exhibeat coram eodem Reverendissimo*——

\* June 2.  
† Feb. 3.  
‡ 13.  
|| Apr. 24,  
25, 27.

*diffimo—in proximâ Sessione. Deinde—Continuavit to Mar. the 3.*

In short, it was by such Precedents as these that Arch-bishop Parker guided himself, when he drew up, in this Year, *the Form of Holding a Convocation*, which says, that it is the Arch-bishop's part, to *Exhort* the Lower House, *ut de Rebus Communibus, quæ reformatione indigeant, Consultant, & Referant die statuto. Ac ad hunc modum de Sessione in Sessionem continuabitur Convocatio.* They can *Consult* on any *Intermediate* day, but can [*referre*] *Report* only on the *Day appointed* for the *Common Session*. As a *Separate* and *Legal Body* of Men who have a *fixt Officer* to *Preside* over their *Debates*, they can *Meet*, *Treat* and *Resolve*, when they will; but must wait for the *Time* of the *Bishop's sitting*, to lay the *Result* of those *Debates* before them. He is their *Prolocutor* always, whenever they please to assemble; but a *Referendary* only, when he acts between the *Two Houses* of *Convocation*.

\* What, *Diebus Statutis*, in Arch-Bishop Parker's *Form* means.

It has been disputed, † whether the *Dies statutus* in this passage means the *Day appointed for the Common sitting of Both Houses*. Nothing but an *High Degree* of *Perversness* could have led a *Man* to dispute this: for what *Other Day*, but that of the *Common Session*, should the *Arch-bishop* appoint, for the *Reports* of the *Clergy*? We are told that *the same Phrase*, in another part of that *Form* is us'd otherwise; where the *Clergy*, after the *Choice* of their *Prolocutor*, are directed to present him, *in die statuto*; They are so; and by that *Dies statutus* is meant the *next Sessionary day*, as the *Perpetual Practise* of *Convocation* shews; and a certain passage in another *Part* of that *Form*, demonstrates; where it is said, *sicq; Electum ipsi Reverendissimo in eadem Domo Capitulari proximè insequente Sessione debitâ cum solempnitate presentent.* The *Dies statutus*, we see, signifies neither more, nor less than the *Proximè Insequens Sessio*, at least if *Arch-bishop Parker* may be allowed to understand his *Own Meaning*. Nay there is yet *Another Part* of that *Form*, which speaks of the *Clergy's* repairing *Early* to *Convocation*, *Diebus Statutis*; and I dare say, this *Gentleman* will not allow, that the *Dies statuti*, here spoken of, were any other than the *Days of Common Session*. Did he overlook these *Passages*? mistake them? or conceal 'em? Let me add, that the *Closing Words* of that very *Citation* he produces, sufficiently explain the *Meaning* of it; and He acted therefore with his usual *Waryness*, in dropping them—*Referant Die Statuto: Ac ad hunc modum de Sessione, in Sessionem, Continuabitur Convocatio*, that is from *One Appointed Day*, to *Another*. Accordingly we may observe, that the *Business* which the *Arch-bishop* recommends to the *Clergy*, at the *End* of *One Session*

† Right of the Arch-bishop. p. 82.



Session, he always presses 'em to dispatch by the Return of the *Next*; and in all the Records of Convocation I do not Remember One Instance to the Contrary; that is, where a *Report* of Business proposed to the Clergy is ordered to be *made* at the distance of *two, three, or more* Sessions. The *Dies statutus*, if any Day be appointed, is ever the *Next Sessionary Day*; which in all the Precedents before alledg'd is appointed One, Two, Three days, or a Week afterwards, according as it is judg'd that the Clergy may be able within that time to finish what they are doing. There is no Room therefore for a Cavil on this Phrase, which was nicely adapted by the Drawer of the Form,

† Even the *Notemaker* on this Form saw thus much and (which is somewhat more) owns it [p. 9.c.1.] tho' indeed He spoyles this concession afterwards by a Critical Remark about the placing of a *Comma*: for an Answer to which, as it affects the Cause, I refer him to *Common Sense*; and, as it concerns Dr. A's Edition of the Form, to the *Compositor*. He should have foreborn to add, that "if this Form had meant to provide for any such separate Practise, it would have said, *De Rebus Communibus, quæ Reformatione indigent suo tempore consultant, & denuò referant die statuto*: for this shews only that he has not Latin enough to know the difference between *denuò* and *denuò*.

The Practise of *York Prov.* after 1529.

to the known *Usage* of Convocation, and to the Ordinary *style* of the Acts: † nor consequently, is there any Handle to dispute, whether all the Intervening space between [the *Dies Statuti*] the *Sessionary Days*, be not allotted to the Clergy for *Consultation*.

The Practise was the same in *Yorke Province*. The Adjournments there made by the Arch-bishop were so far from being a *Restraint* on the Lower Clergys debates, that they were design'd on purpose to give *Room* for them; and therefore between the Terms of Adjournment they antiently did all their Business, and ripen'd it for a Proposal at the Time of the Synodick Session. Of this I will give him two Full Instances from the Records of a Convocation held A. D. 1531. during the Vacancy of the Arch-bishoprick.

Jan. 13. 1530. The Prolocutor being just presented and confirm'd dictum fuit eisdem Prelatis & Clero tunc presentibus per eundem Rev. Virum Brianum Higden Dec. quod ad Scholam sive Librarium superscript. redirent, atq; invicem inter se de hac re [the Relaxation of the Kings Debt to them] ibidem conferrent, atque quod rursus in Domo Capitulari comparerent inter horas 2 & 3 ejusdem diei; distumque Convocationis Negotium usque in idem tempus continuavit. Circiter quam quidem horam dict. Dec. & Cap. in dict. Dom. Cap. sedent pro Tribunali, coram eisdem comparuerunt dicti Prelati aqtue Clerus unà cum ipsorum Prolocutore, and said they were not yet resolv'd: So the Conv. was adjourn'd till 7 a Clock next morning. Quo die adveniente, the Prolocutor and Clergy brought up the Instrument of Relaxation.

16. Nov. 1531 [Die Jovis] Dominus Decanus—ex consensu Capituli continuavit eandem Convocationem usq; in diem Crastinum, ut dicti Prælati & Clerus possent INTERIM deliberare circa necessaria ac requisita ad exactionem dictæ Summæ Pecuniarum Domino Regi superius concessæ. Quo die Crastino adveniente viz. die Ven. 17. Nov. Horâ Capitulari consuetâ—dictis Domino Decano & Capitulo pro tribunali sedentibus, Idem Dominus Decanus ex consensu Capituli continuavit dictum Convocationis Negotium per totum illum diem. Ac postea eodem die—idem Dom. Decanus—Continuavit Conv. præd. usq; in Diem Crast. in hunc Locum, & Horam Capitularem. Et illo die Crastino adveniente viz die Sabbati, 18 die dicti mens. Nov.—horâ Capitulari, —Idem—Continuavit—per totum illum Diem. Ac deinde eodem die sic cum Capitulo in eadem Domo pro Tribunali sedens, & ex eorum Consensu, in præsentia Prælatorum & Cleri hujusmodi, continuavit dictam Convocationem usq; in diem Lune tunc prox sequ. Incipiendo ab horâ 8 ejusdem diei—Quo die tunc adveniente viz. 20. die mens. Nov.—coram dictis Dom. Decano & Capitulo in dictâ Domo Capitulari pro Tribunali sedentibus, Prælati & Clerus antedicti comparentes exhibuerunt quandam Schedulam, & in eandem consenserunt sub hoc qui sequitur verborum tenore. “ Nos Prælati & Clerus dictæ Ebor. Prov. in Con-

\* I have already produc'd these

words [from the Preamble of the Clergys Grant] pag. 15. but thought it proper to repeat them here together with the Acts, in which they ly; because, by Comparing One the with the Other, the Reader will discern easily, what the Phrase of Convocation in that Prov. (tho' it mentions the Arch-bishop's Name only) must necessarily imply: for we see here, that the Guardians are all along in the Acts themselves said to Adjourn, and yet in the Instrument, the Conv. is spoken of as adjourn'd from day to day by Them, the Prelates and Clergy; The Consent therefore of these Latter was suppos'd to Intervene always, even where it is not express'd. And this Consent they either exerted Separately in their Own House, when they adjourn'd to the same time; or by appearing at the Continuations made Above; as they are once, in this Passage, and often, in the Preceding Acts, said to have done. Continuations in præsentia Prælatorum & Cleri carry'd in them the Tacit Consent of all those that were Present.

“ vocatione sive Sacrà Synodo Provinciali in Ecclesiâ Metropolitica, Ebor. 12 die mens. Jan. ad A. D. 1530 per Venerab. Virum Brianum Hygden Decanum dictæ Ecclesiæ Metropolitice, & Capitulum ejusdem, Custodes Spiritualitatis ibidem, Sede Archiepiscopali vacante, ac per Nos Prælatos & Clerum Ebor. Prov. ad tunc Inchoatâ, & in istum 20 diem mensis Nov. Anno 1531 jam instanti Continuatâ, & Legitimè Prorogatâ—CUM admodum sit onerosum, &c.

I need make no Comment on these Passages; they, at first sight, inform us, that the Clergy's proper time of doing business was in the Interim of Adjournments; which were made on purpose.

pose, to give Scope to Them, separately to manage their Debates, and Form their Conclusions. And if I am not mistaken, there are many Later Instances of the same kind in the Acts of that Province. For the Accounts, which I have of them, say often, That a Peremptory Adjournment was made to such a Day, without the Words, *Et Citrà, si opus fuerit*; and yet before that Day, the Lower Clergy are said to have come together, and granted Subsidies, or done some other Business. *Interim vero* the Clergy met, and did so and so. And in the Margin of such Acts, these Words are usually enter'd; *PENDE, T Convocatio, sive Synodus Cleri Dioc. & Prov. Ebor.* Whereas, in the Margin of the Sessions, properly so call'd, that is, of the Days appointed for the Common Assembly of the Arch-Bishop, Bishops, and Clergy, some such Words as these, are generally put; *Convocatio sive Synodus Prælatorum & Cleri totius Dioc. & Prov. Ebor. continuatur & Prorogatur in hos diem, horas & locum, & moniti sunt omnes & singuli in ultimâ Sessione comparentes ad tunc comparend', & non comparentes pronuntiantur contumaces.* I cannot perfectly depend upon brief Notes taken sometime ago, and without any view of this Controversy. However, I have Reason to believe, That they do not mislead me. If they do, those Gentlemen, who have a Compleat Transcript of that Book, will easily be able to undeceive both Me, and the Reader. But if the Case be, as I apprehend, there cannot be a Clearer Testimony than this, of the Right of the Lower Clergy of that Province to sit *Intermediately*.

The Chief Champion of *Sole Power* was aware of these Evidences, at least of some of them, and has taken Two ways of fencing against them; *First*, by a Prudent Concealment of the Passages themselves, which he slides over with a *General Mention* onely; and, *Secondly*, by laying in an *Objection* or two against 'em, whenever they should be forth-coming. For

\* p. 79.

† Ibid. and p. 80.

The Command of the Arch-bishop for the Clergy to sit Intermediately, no proof that they do not sit by their Own Authority.

All these Intermediate sittings of the Clergy were, he assures us, held at the *Express Command and Direction of the Arch-bishop*, and upon *such Business only* as He had referr'd to them\*: and again, the Clergy thus Meeting Intermediately, sat not *Synodically*, and *as an House*, but as a *Committee* only†. Both these Exceptions I shall consider, and, I hope, give a Clear and Full Answer to them.

As to the *First*, The Reader may observe, that *All* the Instances alledg'd, are taken from the *Upper House Registers*; and 'tis no wonder, therefore, if the *Arch-bishop's Direction* should be mention'd in all of them; for *That Journal* could not take notice of the separate Consultations between Session and



and Session any otherwise than as *He* and his *Suffragans* interpos'd in them. All the Acts I have refer'd to contain an Account only of what was debated, reported, or done, in the *Locus Synodi*, the Place, where the Upper House always, and the Clergy Occasionally assembled. Can we expect that those Acts should furnish us with Proofs of any Intermediate Sessions, but what were there directed, and agreed on? Or can it be infer'd with any Colour of Reason that the Lower House never sat and debated in such Intervals, but when they were expressly so required? At this rate it may be prov'd that the *Commons* in Parliament never sat *after* the *Lords*, but by Immediate Direction, because the Rolls never mention any thing of such *Post-Sessions*, but on such an Occasion. It is said indeed in the Parliament Roll of R. 2. pt. 2. n. 1. That " the Parliament was Adjourn'd " from Friday to Wednesday, & comandez fust a les Communes que " en le moien temps ils tressent de la Personne, qui avoit les paroles en cest Parlement purla Commune, au fin que pur l' Election " detielle persone le Parlement ny fust tarriez — And in a Few Other Instances (indeed very Few, in Comparifon of those which I have Produc'd in behalf of the Lower Clergy, from the Registers of Convocation) Like Directions recurre. Will any Man from thence argue, that these were the Only Instances, where the Commons sat and Debated, *en le moien temps*, that is, when the House of Lords was up? But says the *Asserter*, " Let them " shew us any matter Reported to their Lordships, as resolv'd " at an Intermediate Meeting the Consideration whereof had " not first been enjoyn'd by the Arch-bishop. † A very Absurd Demand! for the Opinions of the Lower House, when laid before their Lordships, mentioned onely the Final Result of their Debates, and the Propositions upon which they had agreed; but nothing of the Preparative Steps and Methods of acting, or of the Times at which they sat for that purpose. And therefore, to return his Demand upon him, " Let him shew me, first, " any matter Reported to their Lordships, AS done at an Intermediate Meeting, even when the Consideration of it had certainly been enjoyn'd by the Arch-bishop; and it will Then be Time enough to look out for a Report, where the Consideration of the Matter Reported had not been so Enjoyn'd. But till he can furnish us with Proofs of the One sort, it will be Ridiculous to demand any Proofs of the Other. Such Proofs can be had onely from a Comparifon of the Contemporary Journals of Both Houses; whereas All the Instances I have produc'd from the Records of this Province relate to Times, when, either no Journals of the Lower-House-Acts were kept, or those Journals have been since destroy'd. However,

† p. 80.

## The Case of the Schedule stated.

Secondly, Even those Instances, where the Lower House is admonish'd by the Arch-bishop to sit and Act, are attended with such Circumstances, and so express'd, as sufficiently to intimate to us that they sat, though at his Direction, yet not by His bare Permission, and Authority. *Archiepiscopus injunxit, præcepit, voluit, mandavit*, that the Clergy should consider of such a matter, and report their sense of it at such a time. These Injunctions convey no New Power of acting to the Clergy, but direct them only to the Exercise of their known Power, on a Special Occasion. They are given as to a Body of Men already in Being, and in a Capacity of Acting; and *suppose*, but do not make them an Assembly for the purposes mention'd. And therefore these Peremptory Phrases are, in other

\* May 21. 1356.  
 + 11 Kal. Feb. 1369.  
 5 Sess. 1557.  
 || 11 Oct. 1429. Form.  
 Conv. celebr.  
 .. Feb. 1379. Apr.  
 1371.  
 .. 16 Apr. 1426.  
 \* 11 Oct. 1399.

Instances of the like kind, softened into *Dominus Suggestionem fecit* \* *Rogavit* †, *Exhortabatur*, || *Mouit* ∴ *petiit à Claro, ut deliberarent* ∴, *mandavit quòd deliberarent*, & *Articulos illo termino, si voluerint, proponerent* \*. Expressions, by which it cannot be pretended, that the Clergy were Enabled, but only *Press'd to Meet*, and *desir'd*, when they met, to *dispatch* such and such Business. At the Entrance of a Session, the Arch-bishop frequently addresses himself to 'em by the words,

*Mandavit, voluit*, &c. in relation to the Debates of that Day; and they return their Opinions about what he proposes to them, before he rises. It is Ridiculous to say, that such Commands at the Opening of a Session give the Lower House a Liberty of *Assembling* and *Treating*, which, to be sure, they are *Then* in possession of: and how come the same Words therefore to signify more, at the Close of it? The King hath often sent Like Messages about the *Immediate* Dispatch of Business to the *Two Houses of Convocation*, or *Parliament*: such Royal Commands do not impower either the *Ecclesiastical* or *Civil* Houses to sit, and Debate, but require them only to give the Preference to such Debates as he then recommends to them. Had the Arch-bishop's Instructions to the Lower House about proceeding in Business, after he rose, *qualify'd* and *Authoriz'd* 'em to Sit in that *Intervall*, the Registers of Convocation would frequently have spoken this Language; they would have told us, that his Grace *Licentiam*, [*Potestatem, Autoritatem*] *dedit* to the Lower House to *Assamble*, and Debate on such occasions; as he is said often on the Last Day of Convocation *Procuratoribus Cleri Licentiam recedendi dare*, because they could not depart,

*without*

without such a Leave. And if without such a Leave, they could not have acted *intermediately*, it would have been said equally *Licentiam dedit Tractandi*; at least, now and then this Phrase would have occur'd: whereas, it is not *once* apply'd to this purpose, in *All* the Records of Convocation. The Clergy are *never* there represented, as *asking Leave*, or the Arch-bishop as *giving them Leave*, or as *forbidding them* to sit *intermediately*; nor does he ever interpose in it any further than to *require* them to Sit and Dispatch the Affairs then laid before them. The *Asserter* indeed *Insinuates* the contrary, and upon a very false Supposition argues very Truly, that "the Clergys *requesting* Leave of His Grace to transact such Business, as on Other Days they could enter upon *themselves*, is a plain Argument,

that they had no Right to do it on *Intermediate* days, but as *im-power'd* by the Arch-bishop. \*

\* pag. 80. 81.

But I challenge him to produce any One Plain Instance (†) of their *Requesting* such a Leave of the Arch-bishop; and, till he doth, the Inference will run quite the other way, that "their *not requesting* Leave to Sit, is a plain Argument that they did not *need* it. This Challenge is not (like one of His \*) made upon Points, where the Proof demand'd, is, in the Nature of the thing, next to *impossible*: for if ever the Lower Clergy had put up any such Requests, they would have been enter'd with their other Petitions, in the Upper House Registers, now remaining; and therefore it is highly reasonable to call

(†) I say, a Plain Instance; for there is One that may be detorted to this purpose, where they decline returning an Answer to some matters propos'd to them, till, with the Leave of the Arch-bishop and his Brethren, they had held a *Special Consultation* upon it; which the Arch-bishop is there said to Grant: and They afterwards debated, in several *Intermediate Days*, on the subject propos'd. But the Request thus made, and granted, was only for *deferring the Return* of their Opinions, not for their *sitting Intermediately*, in order to form them. For the Lower House knew not, whether the Upper House would or would not sit concurrently with them, during the Course of this Seperate Debate; and therefore ask'd a Delay only as to *themselves*: which Request, after all, was unnecessary; for there is no doubt, but that *Then*, and long before, it was the

Right of the Clergy, to give a *Final Answer* to nothing, but what they had Separately agreed on.

\* As, where he "Challenges the Answerer to produce any Instance of Business done on *Intermediate* days, but by the Direction of the Arch-bishop [p. 80.] he Treads very safely: for no *Intermediate Sitzings* can well be mentioned in the Act-books of the Upper House (which alone remain in the Times he is speaking of) nor any Business be there enter'd, as done at those times, but when the Arch-bishop himself interpos'd, and directed the Dispatch of such Business.



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upon the Affirmer of Proofs in this Case: and if no such Proofs appear, it is certain, that no such Requests were ever made. Nay,

*Thirdly*, If the Lower House could not have sat, *after* the Arch-bishop's Adjournment, *without* his Leave, neither could they have sat *with* it. For the *Last* thing recorded, as done in every Session, is the *Adjournment* it self. The *Leave* pretended, is in the *Body* of the *preceding* Act, Now the Subsequent *Adjournment*, which is a *Sentence* pronounced by the Arch-bishop, in form, *Judicialiter sedens*, if it included and dismiss'd the *whole* Convocation, would have left no *Room* for the Arch-bishop's previous Leave to Operate, but would have affected them, notwithstanding such a Leave, as peremptorily, as his Act of *Dissolution*. Their Meeting therefore and Acting, *after* His Adjournment, can never be resolv'd into *His* Leave, but must have been owing to an Inherent Power, vested in them, as a separate *House*, or *Body* of Men, by the Custome and Constitution of our Synods. Had the Clergy's *Title* to Act depended upon the Arch-bishop's License, the very *Form* of his *Adjournment* would have been drawn with a *Reserve* for their so doing. *Archiepiscopus—continuavit Convocationem* [to such a time] —*excepto quod Procuratores Cleri Interim convenient, & tractent, &c.* or the like. Whereas the *Sentence* of *Continuation*, being not *Conditional*, but *Decisive*, must have cut off the Clergy's *after-debates*, if *They* had been really included in it.

The Clergy sat not Intermediately as Committees.

There is no Force therefore in his *First* Objection against Intermediate Days, "That they sprung from the Express *Command* and *Direction* of the Arch-bishop. There is as little in the *Second*, that the Clergy thus meeting *Intermediately*, sat not *Synodically*, and as an *House*, but as a *Committee* only. What I have already offer'd is sufficient to discover the weakness of this Plea: however, since it is often made use of by the Affirmer, I shall give a separate Answer to it. And, in order to that shall,

1<sup>st</sup>. Free his Distinction from that Confusion of Terms in which he hath involved it. He says, they do not meet *Synodically*, and as an *House*; insinuating, that these two terms are *Convertible*: whereas they are really *Oppos'd*, as I have elsewhere shewn. The Clergy meet *Synodically*, in strictness of speech, when they assemble *with* the *Bishops* in the *Upper House* upon the Day of the

the Synodick Session; they meet, as an *House*, when they Assemble and Debate *apart*, on *that* day, or on any *Other*. The Doubt therefore is not, whether the Lower Clergy, on *Intermediate* Days, met *Synodically* (for it is granted, that, in the Proper sense of that word, they *did not*); but whether they met, at such times as an *House*, or as a *Committee*. He *affirms* the *Latter*; and indeed he *only* affirms it: for he neither hath brought, nor can bring any shadow of Evidence from the Language, or Usages of Convocation to Countenance this Assertion. For,

2ly. Whenever a *Committee* is mention'd in the Acts, either Old, or Modern, there is mention also of a *Choyce* made of the Persons so Commission'd, and of the *Names*, or at least, the *Numbers* of them. They are (as the *Note maker* well expresses it \*) a *Select Company*, always nominated, and chosen from \* p. 9.c.1. a Greater Body, whose Power is deputed to them for such and such purposes, and under such and such Limitations. There is no footstep, in the Records, of the *Arch-Bishop's* Interposition towards settling any other *Committees* than These; nor any Colour for calling the whole *House*, when it sits, a *Committee*, because the *Arch-bishop* directed the Session. These are vain and groundless Pretences, taken up purely to serve a Turn, against the plain Reason, of the thing, and the whole stream of *Precedents* now remaining. The Asserter indeed would persuade us, that he hath found One " *Full Instance* of a *Committee* of the " *Whole House*, appointed to Meet and Act at an *Intermediate* " *Time*, by the *Arch-bishop*. † But I believe, when it is considered, it will be found to be a very *Empty* one. He cites *Sess.* p. 89. 10. 1640. Where, the Prolocutor and some of the Clergy being in the Upper House, "*Reverendissimus eos voluit ad conveni-*

*end. Die Veneris prox. TEMPESTIVE, & ad* " *tunc tractand. Cum Toto Cetu Domus Inferi-* " *oris, circa Benevolentiam* &c. and then " (says he) the *Arch-bishop* continues " \* *Convocationem sive sacram Synodum* " *Provincialem* &c. to the same *Friday* be- " tween 2 and 4 in the afternoon. The Stress of his Proof lyes upon the word *Tempestive*, from which he would insinuate, that the Lower House were to meet that day in the *Morning*, or at least before *Two a Clock* in the afternoon, the Earliest Synodick Hour; and were, therefore, to

\* The Reader may observe here, how skillful he is in dropping words that make against him. He had been large in the Transcript of the *Latin* Act, till he came to the words, *Deinde eis dimissis Reverendissimus—continuavit*. And then, of a sudden, he throws in a little *English*; because the *Dismissal* of a Prolocutor &c. just before the continuation made above, in This, and many other Instances, is too plain a Proof (to be own'd) of the Clergy's Right to *Separate Adjournments*.

meet.

The word, meet in a *Committee*. But nothing can be more unlucky than *Tempestive*, this Remark, as appears by the use of the same Word in the act of March 24. 1586; where the Commissary Adjourns, in the Morning, *usque ad & inter horas 1 & 4 pomeridianas*, and orders ut *Omnes Hujus Domus* [the Lower House] *qui ad locum predictum ante meridiem illius diei venirent, moneantur ad tempestive congregand. in locum solitum predictum* statim a prandio, &c. by which was manifestly meant, that they should appear as early as they could after One a Clock, not that they should appear before it: for this Notice was to be given to All that came before Noon, and an Hour was, even in those Busy and Frugal Times, but a Competent Allowance for their *Departing*,

Dining, and returning again to Convocation. This the *Asserter* ought to have been aware of, because he hath printed † the *Ad* it self, at large, upon another Occasion. Nay, if such an Admonition, to resort to Convocation *Tempestive*, implies, that the *Whole House* are to meet in a *Committee*; it will follow, that, by the Rule of Convocation, They were to meet in a *Committee*, every Session: for Arch-bishops Parker's Form mentions it, as one part of the Prolocutors Office, to admonish the Clergy *quod Statutis diebus* [i. e. on the Synodical days, as I have prov'd] *ad Convocationem Tempestive veniant*. The *Asserter*, we see, was

hard put to't, to find an Instance of a *Committee of the Whole House* \* appointed by the *Arch-bishop*, when he was forc'd to derive it from a Word, which happens to mean just the Contrary.

\* Indeed the Lower House of Convocation 1701 agreed to Meet, and Sit, as a *Committee*. And there is no doubt but that a Body which Debates, and Resolves separately, is Master of the *Methods* in which such Debates shall be manag'd; and at Liberty therefore to make *Rules* and *Precedents* for this purpose, where there are none already, and they shall be thought wanting: Especially, after such a Loss of Old *Journals* and *Precedents*, as the Clergy at present labour under.

Well, then this Precedent no ways favours his Graces Power of turning an *House* into a *Committee*, by a *Voluit*, or a *Mandavit*. How comes the *Asserter* by such a Power? Upon what Grounds doth he *Unhouse* the Clergy in these Intermediate Sessions? what Marks of a *Committee* doth he find upon them? He is shy of producing his Reasons in this case; but I will not be backward in offering mine, why they were not *Committees*, as he pretends.

3dly, Therefore, They sat not as a *Committee*, because they had not a Power delegated to them from the *whole Body*, or from  
Either



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Either House of the Synod; which *Delegation* is as essential to a Committee, as a *Prolocutor* is to a Lower House of Convocation. It is not pretended that they were *deputed* in this Capacity by any body but the Arch-bishop; and that *he* deputed them, as such, is only *pretended*; for it appears from no Syllable in the Records: but it appears there, that he had no Power to make such a Deputation. For it is plain, that he could not Name even a *Special Committee* of *Select Persons* in the Lower House, without the *Consent* and *Approbation* of the House it self; much less could he *Nominate* the whole House for this purpose, and that, by a Command only to Sit and Act, without signifying a word of his Intentions to Unhouse them. That he could not appoint the *smallest* Committee of the Lower Clergy without their Consent, I will prove by one full Instance, and His Ill luck in the Use of that word shall not discourage me from emplying it.

1428. Jul. 10. The Arch-bishop sent his Chancellor to the Convocation, *qui, presentibus tunc ibidem Prælati & Clero intimavit, quod Voluntas Domini erat, quod Prælati, pro parte suâ, & Clerus, pro parte suâ, eligerent certas personas, quas idem [Cancellarius] de Voluntate Domini nominavit, quæ inter se communicarent & deliberatè viderent &c. Et incontinenti Procuratores Cleri adierunt Dom. Inf. ubi, de Unanimi Consensu, ne per Nominationem supradictam viderentur perdere Libertatem Eligendi, quâ ab Antiquo gavisi fuerunt, elegerunt certas personas pro parte suâ; & medio tempore, Prælati, pro parte suâ, elegerunt alias personas.* Here the Arch-bishop thro' Inadvertency, I suppose \* began a New Custom of Naming the Persons, who were to act for the House: The Clergy took the Alarm at it, retir'd, and, probably, chose Others in their stead; for, else, it would have been said, *elegerunt Easdem Personas*, whom the Chancellor had nam'd to them; and this they did, least they should loose the Liberty of Choosing, which they had *ab Antiquo* (and hitherto, it seems, without Interruption) enjoy'd. And even this Assertion of theirs is now near 300 years Old. But,

\* I can suppose no Otherwise of Arch-bishop Chicheley; for he was the great Patron and Promoter of the Liberties of the Clergy; and under Him and Arch-bishop Arundel, (Two as High spirited Prelates as ever sat in that See) the Chief steps were taken towards completing the Separation of the Two Houses of Convocation: So little did these Great and Wise Men apprehend, that the Arch-bishop's Power or Interest was diminish'd by increasing the Priviledges of the Clergy.

4thly, They sat not as a *Committee*, because they were Often, in these *Intermediate Sessions*, left to act *at large*, and not *Confin'd*, and ty'd down to consider *particular* Points only, as *Committees* generally are. For the most part, their Employment

† May. 17. 1356, May 14.  
1406, 2. Dec. 1411. Nov. 15.  
1529,

\* May 15. 1356, 11. Kal.  
Feb. 1369.

¶ 4 Non. Dec. 1473.

in these Intervals was either to draw up their *Petitions* for *Reformation*, and Lists of *Grievances*, † or to frame Grants of *Subsidies*, \* and sometimes they were bu-  
fied on *Both* || these *Heads*, at once: which comprehended *almost All the* Busi-  
ness, that the Lower Clergy then *Ordinarily* had in Convocation: for their Concurrence in the framing of *Canons*, and in the Exercise of Synodick *Jurisdiction*,

happened more rarely. At One Synod. A. D. 1399, particularly, I find 65 *Articuli Cleri* (Containing all the *Reformanda*, which they had to propose either in *Convocation*, or *Parliament*, and many of them Points of Vast Consequence) fram'd by the Clergy in *Intermediate Sessions*. Nay, so far were they from being *Limited* in these, Debates, that sometimes, they are required only to treat, in general, *de Rebus Synodi*, \* or *super Materiâ Convocationis prædictæ*, till such a Day, when the Arch-bishop and his Brethren would return, *ad effectum tractandi materiam Convocationis prædictæ* \*; that is, they were to treat of all Synodical matters, that the Arch-bishop and his Brethren could treat of. At other times, after particular Business commended to them, they are exhorted, *Ut Ipsi de tempore in tempus ——— convenirent, & circa Materias hujusmodi, & alias Convocationem hujusmodi concernentes, in tenderent diligenter: † Or, super præmissis, & aliis Materiis quibuscunque Reformatione necessariâ indigentibus* \* Do these look like Instructions to a *Committee*, or to an *House* of Convocation? Again,

\* Nov. 8.  
1529.

\* 5. Id.  
Maii 1379.

\* Oct.  
Nov. 26.  
1439.

5thly, They sat not as a *Committee*, because, in all Appearance, they were to conclude *finally*, and no ways oblig'd to report what they agreed on to an *House* first, e're they layd it afterwards before the Arch-bishop in Full Convocation.

There

There is no Intimation in all the Registers and Extracts, from the Beginning to the End of them, that they either *were* to take, or *did* take any such Steps; which yet were necessary in point of Form, if they had acted as a *Committee*; and would probably have been, somewhere or other, hinted at. But instead of it they are required only to Debate, and Resolve, and bring up Their Resolutions, such a Day: The same Persons, and in the very *same Capacity*, by all we can learn from the Phrase of the Acts, were to *begin*, and to *perfect* the Business, then laid before them. And accordingly, they appear in the Upper House, at the *very Entrance* of those Sessions, against which they were requir'd to dispatch; and *there* offer the Business, prepar'd by them in those Intervals, to the Consideration of the Synod.

Lastly, They sat not as a *Committee*, because they had a *Prolocutor* at the Head of them; and *Him* acting, not as a *Chairman*, but as a *Legal Officer*, vested with a Power of *reprimanding* the Members, and keeping them to Order in their Debates, by *Admonitions*, *House-Censures*, and *Punishments*. Thus the Prolocutor acted in several such Intermediate Sessions, *A. D.* 1553, as I shall presently prove beyond the Possibility of a Denial. And shall now close these Reflections by Observing, that even a *Sub-prolocutor* was appointed to attend the Clergy in such Intervals; as we may gather from the Instance produc'd *P. L. H. p. 11. c. 2.* which I shall here briefly repeat, and confirm. The Extract of 1554. shews, that on *Nov. 28.* the Prolocutor then present (†) in Convocation substituted Deputies, to act for him, *durante ejus Absentiâ*. The Upper House adjourn'd to *Dec. 7.* and then pass'd a Petition for Confirming Abby-Lands to the Patentees, which, in All Probability, the Clergy had, *during* that Nine Days Intervals, with some struggle, agreed on: For it was a matter of great Moment, and not likely to go through the Lower House very easily. On this 7th of *Dec.* the Prolocutor is again spoken of, as Present. So that, the Substitution being made only, *durante ejus absentia*, could be designed only to supply his Place, in the *Intermediate Sessions* of the Clergy. I propose this, not as a Point absolutely Certain, but extremely Probable: and if it were so, 'tis plain that the Clergy *during his Absence*, that is, *between* the Two General Sessions, sat, as an *House*, not as a *Committee*; because they had a *Sub-prolocutor* in the Chair of it. For tho' I grant that *Prolocutors* have sometimes been in the *Chairs* of *Committees*, yet they sat not there, as *Prolocutors*, but as *Chairmen*; and, consequently, could not, nor ever did ap-

(†) It is dictus Prolocutor, which shews that he had been mention'd before, in that Session.



point *Sub-prolocutors* in such Cases, to preside for them: which is practis'd only, when the Business of the Body would be at a stand, without such a Deputation.

The  
Asserter  
confounds  
the Noti-  
on of an  
*House* and  
a *Commit-*  
*tee*.

After all, were there any Ground for such a *Distinction*, between the Clergy's acting as an *House*, or as a *Committee*, in the *Sessionary*, or *Intermediate* Days, yet has *This* Author no Right to make use of it, who *confounds* these two Assemblies so often in the course of his Writings; there being scarce a single *Property* belonging to the One, which he hath not, somewhere in his Book, apply'd to the other. Is a *Committee* limited to Consider only of what is referr'd to them? So is an *House* too, if we will believe him; for he often gives it as his Opinion, that the Lower House can go upon no Business, without the Archbishop's *Special Direction*. \* A *Committee*, according to *Him*, (when appointed by the *Archbishop*) may consist of the *same Numbers*, an an *House* †; may equally have a *Prolocutor* at the Head of them, acting as such, and a *Subprolocutor* in his absence, made to attend them; \* may come together, in these Circumstances, on the *Days* of *Convocation*, and sit throughout the whole time of the *Synodick Session* ∴; It may proceed *Judicially* ∴, in all the Forms of Law, and Decree *finally*, determining *Disputed Elections*, without any Recourse to the *House* ∴; if the *Archbishop* hath, in such cases, but signifi'd his Pleasure, and *committed* such and such Business to them. So that He, I say, who so far, at some times, *confounds* the Properties that belong to Each, hath no Title, at Other times, to *distinguish* between them.

\* See p. 84,  
113, 114,  
123, 124.

† See p. 85,  
86.  
\* p. 88.

∴ P. 92.

∴ *Ad interponend'*  
*finale Judicium*---  
Jan. 27.  
1640.  
which,

the Asserter supposes, was to have been done by the Whole House, acting as a *Committee* appointed by his Grace; that is, in a particular Matter by him Referr'd to them.

I thought it requisite, narrowly to examine this Pretence, on the Lower Clergy's sitting *Intermediately*, not as an *House*, but as a *Committee*; because it is the Chief Evasion, which the Writers of the Other side, when press'd by plain Authorities, take refuge in. This is the main Prop, that supports the Goodly Scheme of Sole Power, in the Point of *Continuations*; and when once it is withdrawn, the whole Fabrick must tumble. For if it can be made out, (as, I think, it has been made out, pretty evidently) that the Clergy met and acted, in these *Intervals*, formally as an *House*, there's an End of the Dispute about the Power of the Lower House to *Adjourn* it self. For it is Certain, and it is Granted, that they could not Sit, and Act, as an *House*, between Session and Session, but by their  
Own

Own Adjournments. And therefore I shall put an End to these Remarks, and this Book, by producing yet Plainer and more Convincing Instances of it, from the Synod which met under Q. Mary, 1553, and from the Convocation of 1640.

Of the Synod in 1553, the Words of Dr. Heylin's Extract, which Abridges the Upper House Register, are these.

"Of this Convocation I find nothing Extant but the Pro-rogations, Viz. Friday, Oct. 6. began the first Convocation of Q. Mary's reign, in the Chapter-house of the Cathedral of St. Paul's, London. Prorogu'd by Bishop Bonner, who was President thereof, to Friday 13; and so from Friday, to Friday, till the 24th of Nov. And nothing else Extant in the Books.

Instances of Intermediate Sessions, A.D. 1553.

An Account of what was done in the Lower House, during this Synod, was penn'd and publish'd by Archdeacon Philpot the Martyr, soon after it was up, and is now extant in Fox's Volumes. There, it appears that the Lower House sat, on Three several Days, (viz. Wednesday, Oct. 18. Munday, Oct. 23. and Wednesday, Oct. 25.) when there was no Concurrent Session of the Bishops, who adjourn'd only from Friday to Friday; and that they sat, not as a Committee, but as an House, being so all along styl'd; Meeting upon their Own Adjournments, with a Prolocutor in the Chair, who exercis'd all sorts of House-jurisdiction over the Members. Of this I shall produce the Evidences from that Relation of Philpot, compar'd with some Fragments of the Lower House-Book still remaining.

"Disputation begun in the Convocation-House, London, Wednesday, Oct. 18. [Fox Vol. 3. p. 16. &c.]

"Oct. 18. Afternoon. Weston [the Prolocutor] certify'd the House, [then sitting intermediately] "That it was the Queen's Pleasure, that the Company of the same House, being Learned Men assembled, should debate of Matters of Religion, which her Grace, and the Parliament would Ratify, So that they were to act in the Capacity of an House (as they Now did), and to form such Conclusions, in Matters of Doctrine, as being afterwards Synodically pass'd, were to be confirm'd by the Queen in Parliament.

"Frid. Oct. 20. [when the Bishops also met] "The Prolocutor exhibited Two Bills to the House [that is, Two Propositions; One, about Transubstantiation; the Other, about King Edward's Catechism; to be Debated, and Subscrib'd by them; as they instantly were. And a Message was afterwards sent to the Bishops, upon a Doubt that the Lower House had about

Admitting *Strangers* to dispute there ; which shews, that the Bishops sat by themselves in their Own House, and were not Present at this Disputation. On the same Day] “ There came a Gentleman from the Lord Great Master, *signifying* unto the *Prolocutor*, that the Lord Great Master [and several Others] would be present at the Disputation: and therefore He [the *Prolocutor*] *deferr’d* the same unto *Monday*, at One of the Clock, at *Afternoon* ; [That is, he *adjourn’d* the House to that Day and Hour.]

To the same purpose, the *Fragments* of the Lower-house-Book. “ *Die Veneris, 20. Octobris, Exhibitæ sunt Duæ Propositiones Disputandæ. Item illic Libellus, inscriptus, Catechismus, reprobatus fuit, &c. Quibus Articulis SUBSCRIPSERUNT Omnes præter* [the 5 Disputants]. *Et postea assignata fuit Dies Lunæ, post Meridiem, ad Audiendas Disputationes.*

“ *Mund. Oct. 23. [an Intermediate Day]* The *Prolocutor* made a *Protestation*, [in behalf of the Whole Body] that *They* of the House had appointed the Disputation, not to call the Truth in question &c. [And so it proceeded: of which the *Latin Fragments* also, on this day, give an Account.]

“ *Wedn. Oct. 25.* “ *Divers of the House*, beside the *Prolocutor*, taunted [*Philpot*] ; and the *Prolocutor* said, he was Mad, and Threatned Him, that he would send him to Prison, \* if he would not cease his Speaking—Well, quoth the *Prolocutor*, you shall speak no more Now, and I command You to hold your Peace---If You will not give Place, I will send you to Prison. This is not, quoth *Philpot*, according to Your Promise, made in this House. [not disputing the Power it self, but the Justice of exerting it, on this Occasion]---“ *Mr. Elmar* said, he was to blame, so to reprehend any Man---for that this House is an House of Free Liberty, for every Man to speak Conscience. [*Fox* *ibid.* p. 19. c. 2.]

\*The Marginal Note in Fox is, “The *Prolocutor* threatneth *Philpot*, à Loco Topico Carceris”. It seems the Punishment which was

Lower House had then a Power of Confining their Own Members: for this was not to be Inflicted by a Recourse to the Authority of the Upper-House; not then sitting, nor was to sit, till Friday.

“ *Friday 27 Oct. [The Bishop’s Day]* Dr. *Weston*, the *Prolocutor*--shewing that the Convocation [i. e. the Lower House] had spent two days [Oct. 23, and 25] &c. answered [some of the *Auditors*, who made a Reply to a Question, proposed by Him to the Members] “that he asked not the Judgement of the Rude Multitude, but of *Them* that were of the House. [*Fox* *ibid.* p. 22. c. 1.]

“ *Mund.*



"Mund. 30 Oct. [An Intermediate Day] "the Prolocutor  
 "Commanded Philpot to come no more to the House; demand-  
 "ing of the House, whether they would agree thereupon, or  
 "No? To whom a Great Company answer'd, Yea, [Ibid. p.  
 "23. 24.] [Afterwards] he declared, Philpot might come into  
 "the House, apparell'd in his Long Gown, and Tippet, so  
 "he did not speak, but when Commanded----Then, quoth  
 "Philpot, I had rather be Absent altogether. [p. 24. c. 1.]  
 The Lower House Remains take Notice also of this Sentence.

"Die Veneris [mistaken by the Extracter for, Lunæ] Pe-  
 "nultimo Octobris, Prolocutor, &c. attentâ Ignorantiâ, Arrogantiâ,  
 "Insolentiâ, ac Pertinacitate Magistri Philpot, duxerunt eum non  
 "admittendum ulterius nisi in Civilibus Causis, nisi sit specialiter  
 "Licentiatum, &c [Here was a Member Silenc'd, For that  
 Convocation, by the sole Authority of the House, Sitting not  
 only apart from the Bishops, but on a Different Day from them.  
 And then it follows] "Et Occasione quâ Opponententes recusa-  
 "runt suscipere partes Respondentium, \* & deinceps cessabant Dis-  
 "putationes, & requisiti sunt [The Protestant Disputants]  
 "declarare suam Fidem & Opinionem quâ sentirent de Sacramen-  
 "to Altaris. Et Assertiones vide in Line Libri [where they are  
 at length entred.] Quo die, viz. penultimo Octobris illic in-  
 "seritur Catalogus Omnium de Clero qui non consenserunt de præ-  
 "dicto Catechismo edito in Ultimâ Synodo, ut prætenditur, tem-  
 "pore Edwardi VI. [So that Business of various sorts, and of  
 an high Nature was done, on this Intermediate Day; One  
 Member was Sentenc'd by the House, several Others were  
 obliged to declare under their Hands their Opinions in a Point  
 of Faith; and an Account was entred of such Members of  
 that House, as had not approved a Book, set forth in their  
 Name] Can it be pretended, after this, that the Clergy met  
 on the present day, as a Committee, not as an House? I would  
 desire those that can entertain so Wild a Notion, to tell me,  
 What Power, or Priviledge an House hath, which This Com-  
 mittee (as they will call it) had not, and did not actually ex-  
 ercise? and how is it possible to know an House from a Com-  
 mittee, if such Characters as these do not sufficiently distin-  
 guish them?

\* Et a-  
 bounds in  
 the M S.

Let me add, that these separate Assemblies of the Clergy  
 alone, are often times styl'd, The Convocation-house, both here,  
 and in Philpot's Examinations afterwards. [See Vol. 3. p. 460.  
 c. 1. 463. c. 2. 464. c. 1. 467. c. 1. 474. c. 1. 2, 478. c. 1.]:  
 Where also he twice pleads Impunity for what he utter'd in  
 these Disputations against the Romish Doctrine of the Sacra-  
 ment,

ment, because "the *Convocation-House* [i. e. *That very House, or Assembly, wherein he disputed, on Intermediate, and Sessio-nary days equally*] "was a *Member of Parliament, and therefore* "Priviledg'd with Freedom of Speech. And it is, more-over, probable that *Philpot*, in order to compose this Relation, consulted not his *Notes, or Memory* only, but the *Act-books* of *Both Houses* of Convocation. From the *Upper House Register*, he seems to have taken the *Solemnities* of Opening this Con-convocation, which he describes at the Entrance of his Account, and the *Queen's Writ of Dissolution*, which is printed at the End of it; and *Heylin's Extract* informs us, that nothing else was entred there, besides the *Bishop's Adjournments* from *Fri-day* to *Friday*. The Acts of the *Lower-House* too he seems, here, and there, to have had in his Eye; and particularly to have drawn from thence that Expression [*Oct. 20.*] "Two Bills were Exhibited": for the Words of the Latin Fragments on that day are, *Exhibitæ sunt*. Which I mention only as a Circumstance, that might further confirm the Truth of this Relation; if an Account of Things, written and published so soon after they hapned, and by such a Person as *Philpot*, an Eye, and Earwitness, and never since, that I could hear of, contradicted, needed any such Confirmation.

Instan-  
ces of In-  
termi-  
ate Sessi-  
ons, A.D.  
1640,

I proceed now to consider the Instances of *Intermediate Days*, in the Two Convocations of 1640; which I shall do very briefly: so much having been said on this Article already, as to leave no Room for any but Cavilling Replies. The Plain and short State of the Matter of Fact (as appears from the *Records* of Convocation, and the *Accounts* of those Times, on *All Hands* agreed on) is Thus: On *May 5. 1640*, in the *Morning*, the Parliament was Dissolv'd. Both Houses of Convocation met that *Afternoon*, by Adjournment from *May 2*; the *Upper House* Adjourned to *Saturday, May 9.* the *Lower House*, short of them, to *May 8.* and when they met on *Fri-day*, did not Adjourn to the *9th*, the *Bishop's day*; but over them, to the *13th*; the *Bishops*, on the *9th*, adjourning to the same *13th*: when both Houses of Convocation Assembled, and Sate from thence-forward, on the same Days, to the very end of it. Nothing can be entred more plainly than these *Dates* are in the *Register*, and *Minutes*. What was the particular Reason of the Two Houses thus Ordering their Adjournments, can, at this Distance be matter of Conjecture only, it is matter of Certainty that they did so Adjourn; and as Certain that *That Lower House*, and *That Prolocutor* (*Dr. Ste-ward*) would not have so Adjourn'd, if they had thought what they did to have been altogether Unprecedented, or any

Disrespect

Disrespect to his Graces *Authority* : much less, would they so have adjourn'd, if the Doctrine of that time had been; that they were *included* in the Adjournment made by the Archbishop's *Schedule*.

'Twould be tedious to examine all the Little *Surmizes*, *Colors*, and *Refinements* of the *Afforter* on this Head ; in which sufficient Room would be given to discover his Mistakes. But, in truth, the Task is as *Useless*, as it is *Endless*. For the Records of both Houses are an Evidence beyond dispute, that the Matter of Fact was, as I have told it : and if it were, 'twill signifie nothing, To Guess at the Probable *Grounds* and *Reasons* of their acting ; for That will never settle the *Right* of it. If they *had* a *Right* to order their Adjournments in this manner, we need not trouble our selves to enquire into the particular *Reasons* of their exerting it, at this time: and if they *had not* such a Right, No *Reasons* whatever will justify their Use of it ; nor indeed can any Reasonable Account possibly be given, *why* they should pretend to it.

The *Afforter* resolves all into their *Doubts*; whether the *Convocation* were now a *Legal Assembly* : but were not those *Doubts* as strong, in relation to the *Legality* of the *Separate Assembly* of Either *House* of Convocation ? and could these *Doubts* have any possible Influence towards determining the Clergy to adjourn, *short* of the Bishops [to *May* the 8th], if they had had no *Warrant* from *Precedents* to make such an Adjournment ? Without such *Precedents*, such a *Step* had rendred their Assembly still more *Illegal*, than it would have been, if they had adjourn'd to the *Bishops day*; and was the true way, not of *Dispersing*, but *Increasing* their *Doubts*, by adding One Irregularity to Another.

All therefore that he hath offer'd on this Head, is mere Amusement, and design'd only to make his Reader lose sight of a Plain Point, in a Multitude of little Niceties, and immaterial Circumstances ; thro' which, therefore, I shall not pursue him. For if the Accounts given of these Facts, by the *Sworn Notaries*, in Either House, be *True*, there is no Fair man but will grant, that the Clergy of that time thought themselves to have an Undoubted *Right* to *Separate*, and *Intermediate* Adjournments ; which they could not have had, unless what they did, had been warranted by *Precedents*, then remaining on the Books of Convocation.

To these *Precedents* the Author of P. L. H. † judg'd that the *Minutes* of May 13. might refer, when they say, *Tunc Acta fuerunt perfecta quoad Privilegia hujus Domus* : which looks, as if the  
Bishops

† P. 12.  
C. 2.



Bishops had question'd the Regularity of their Adjournments on *May*, 5, and 8; and *They*, by an Inspection of their *Acts*, had justify'd it. The *Asserter* will by no means allow this Exposition: but he should have been sure, ere he set it aside, of Substituting a Better in the Room of it. What he offers, is, as follows; that the words relate to the Convocation's freedom from *Arrests*; and he proves it in this manner, "On "*May* 18. in the *Minutes* we find the Arch Deacon of *Taunton* and some others, asking *Pardon* for having suffered an "*Arrest*---which Formal Submission, he says, supposes that "*Case* to have been under Examination before; and the first "*step* in that Examination would naturally be the reading "*the Act* of 8 *Hen. 6.c.1.*," To which Solution I have these few Objections.

1. The Session of *May* 18. which he refers us to, was the *Third* or *Fourth* from that of *May* 13; and had this matter of the Arch Deacon of *Taunton* come before the House, as early as he supposes, it would not probably have hung there for four Sessions, e'er it was determin'd.

2. It was not before the House, on *May* 13; as appears from Dr. *Ironside's* M S S. Notes, which give a particular account of the *several Subjects* of *That Day's Debates*; but say nothing concerning it. Nay the Entry of *May* 18. (compared with the Upper House Register) intimates plainly enough that that matter was of a Later date: for thus it runs. (After Business of another sort) *Hoc facto, Dominus Prolocutor asseruit ut---conquestum fuit pro Arrest fact. in---Archidiaconum Taunton, &c. Cumque idem consenserunt, ut dictæ Arrestationes in eos factæ essent, agnoverunt se errore permisisse sese ad arrestand' in prejudicium Privilegiorum, &c.* From the Upper House Act of this Morning, we find, that the Arch-deacon of *Rocheſter* then complained to the Lower House of an Arrest; for the Prolocutor goes up on that Errand to the Bishops, and demands, in his behalf, the *Priviledge of Convocation*. When he complained of this Arrest, to the Clergy, it is Natural to believe, that he complained also of those Members, who had encourag'd such Breaches of Priviledge by their *silence* under them; and that to this the Prolocutor's *Conquestum fuit*, in the Lower House Entry, refers. And such a Complaint could not well be older than *That* or the *Preceding Session*.

3. It is a very forc'd and unlikely Interpretation of the word *Acta*, to make it signify *Statutes*, when in the *Books of Convocation*, it constantly denotes the *Acts* of it; and cannot there, without the Addition of *Parliamenti*, or the like, be suppos'd

suppos'd to mean any thing else. Besides, the Minutes speak of *Acts*, not of a *single Act* then read; and there was but *One Act* of Parliament which related to the *Priviledges* of Convocation, viz. 8 Hen. 6. c. 1. and had *That* been meant therefore it would not have been expressed *Plurally*. Nor would Fisher have called these, *Privilegia Domus*, (which implies some *particular Right* of the Lower House) but *Privilegia Convocationis*, as they are every where else styl'd, and even in the *Upper House Act* of this very Day, † when the Archdeacon of *Taunton* made his Submission Below.

† Prolocutor petiit Privilegium Convocationis.

No Guess therefore could be more Improper, or Unfortunate than this of the Asserter's; which he was not over Wise in dwelling on, for Another Reason; because the Passage affords us a plain Instance of a *Submission*, for suffering a Breach of Privilege made to the *Lower House* by several of its Members, without any Recourse to the *Upper*. For, in the Bishop's, Register of this Day, there is not a Syllable of it. He is usually more wary, than to suffer any thing to peep out, which is to the Disadvantage of his Cause: but Here the pleasure of venting this Subtle Gloss got the better of his Prudence. I have examin'd it thus particularly, only to shew the Reader, how little this Writer's Accounts are to be rely'd on: and I assure him, that almost every Branch of his Remarks, on the Present Article, is *equally* liable to Exception.

One thing only, which he hath offer'd, deserves Consideration. He objects, that, if the Adjournment from *May 8* to *13*. be allow'd Regular, it will prove more than what is contended for; even, that the Clergy can Adjourn *beyond* the Bishops, *without* Meeting them at the Day of the *Common Session*. But this will not follow. For the Lower House in this case adjourn'd *beyond* the Bishops, under a Certain Prospect, that *May 9* would be a *Void Session*, wherein no Business would be done. But had the Bishops sat upon Synodick Business that Day, the Clergy had been *bound* to attend them, *notwithstanding* this Adjournment. For the Perpetual Practice of Convocation, and the Duty which they ow'd their Metropolitan and Bishops, join'd to the Reason and Nature of the thing, were Antecedent Ties upon them, which Their Act at this time could not, and was not intended to Vacate. And their Adjournment therefore, however express'd, must have been understood with the Reserve, *de revocando hunc Actum, Casu quo necesse fuerit Interim*, that is, if the Bishops sat, and did Business: in which Case, it would no more have prevented their Attendance on that day, than a Peremptory Adjournment

jourment of Both Houses to a Distant Time, can hinder them from assembling on any Day *between*, to receive the King's Writ, either of *Prorogation*, or *Dissolution*.

In the Second Convocation of 1640. there is another Plain Instance of the Clergy's adjourning to an *Intermediate* Day; and in such a manner, as shews them to have been under the fullest Convictions of their Right in this respect. The Bishops, on *Decemb. 19.* adjourn'd to *Jan. 13.* and the *Act* of it is entred at large in their *Register*. The Lower House, adjourned only to *Decemb. 23.* and with an Express Reserve for Meeting sooner, as Occasion should require; *Sub Protestatione de revocando hunc Actum, casu quo necesse fuerit Interim.* But that Occasion not falling out, they met only on *Decemb. 23.* and from thence adjourn'd themselves to *Jan. 19.* the Common Day of the Synodick Session.

Here again the Asserter, having no Handle to dispute the Truth of these *Entrys*, betakes himself to the *Difficulties* of the *Times*, and tells us a long story about *Grievances* complained of in Parliament, *Pryn*, *Burton*, and *Bastwick*, Alderman *Pennington's* Petition, Archbishop *Laud's*, and Bishop *Wren's* Impeachments: by which I cannot for my Life understand what he aims at. For how can these *Difficulties* of the *Times* account for the Lower Houses Meeting oftner than they otherwise *would*, or *could* regularly have done? The Publick Disturbances, one would think, and the Fear of Insults, should have determined them rather to Sit as *Seldom* as was possible; but could be no Temptation to them to expose themselves more than they needed to have done, by multiplying Sessions to no purpose. *Decemb. 15.* he says, \* "*The*  
 \* P. 102. "*Canons of 1640, were condemned by Parliament; in which Censure many of the Lower House of Convocation, then Sitting, were involv'd. Do we think that, under the Aw of this Censure, they would, four days afterwards, have appointed to meet in an Illegal Assembly? Such as their Intermediate Session of Decemb. 23. must have been, without an Inherent Power of Adjourning? would they have given their Enemies this New Advantage over them? ventur'd to have gone out of the plain Track of Precedents, when every Motion of theirs was so narrowly watch'd? Or have done any thing, but what the known Rules of Convocation, and Rights of their House could warrant? He that can think this of the Clergy, must believe that Those Distractions of the Times (which he talks of) had seiz'd 'em; and that they were Men, not only out of their Way, but out of their Wits too: for nothing*



nothing can solve their acting at this rate (without a clear *Right* to do what they did) but such a supposition. The *Circumstances* of the Times therefore are so far from lessening the *Authority* of these Instances, that they strengthen and confirm it.

What he adds, That *No Business was done* † when they met † P. 100. on the 23<sup>d</sup>. is said at a venture. The Minutes indeed mention none: but they are as Silent on many other Days, when, we are sure, the Lower House was heartily employed. That, they intended to do Business on this day, when they adjourned to it, is certain: and therefore if they *did* none (which is more than he knows) it was not because they thought themselves to want a *Power* of doing it.

I have been very long on this Head; it is time now to shut it up by a short Re-capitulation of the several Proofs here advanced, and then by pointing the force of them briefly upon the Case of the *Schedule*.

It appears then, That the Practice of Convocations from the Eldest Times downwards hath ever been, for the Lower Clergy to meet in a *Body*, and prepare Business, during the *Intervals* of the Archbishops Adjournments. This they did, long before the Division of the Two Houses was compleatly fix'd; and continued to do so afterwards in their more separate State, when they had a Prolocutor at the Head of them, to Moderate their Debates, and pronounce their Adjournments: Sometimes protracting their Session, on the Synodick Day, beyond the Time of the Upper Houses sitting; and sometimes Meeting and Acting, on any Other Day between Session and Session. Nor did they assume this Liberty by any special *Concessions* of the Archbishop at such times, but by the *Custom* and *Constitution* of an *English* Synod. For tho' no Instances of this kind could be taken notice of in the *Upper House Registers*, but where the *Archbishop* interposed to procure 'em; yet *this Interposition* did not convey any *New Power* to the Clergy which they *had not*, but only directed them to the Exercise of a known Power, upon a particular Occasion: It being never once said in all the Records, either that *They ask'd*, or that the *Archbishop* gave them *Leave to Sit Intermediately*; much less, that he *forbad* them to do it.

Thus the Matter stood in the Earlier Times, nor did the Introduction of the Way of Adjourning by *Schedule* under Archbishop *Warham*, make any change in it: On the contrary, the Proofs of the Clergy's Use of this Liberty are still more clear and convincing, after that Instrument obtained.

*The Case of the Schedule stated.*

For from the Few Remains of the Lower House Acts, left since that time, it appears, that, in 1553, and 1640, the Lower House Sat, *as* such, on several dayes, when the Bishops did not Sit, and adjourn'd themselves *to* and *from* those Days by their *Own* Authority.

The Plain and short Consequence from these Proofs is this, That the *Schedule*, or Instrument of Adjournment, pronounced by the Archbishop above, affects *that* House alone; but cannot possibly be thought to *dismiss*, or *include* the Lower Clergy; who, we see, *regulated* their Debates, *shortned*, *protracted*, or *resum'd* them, as they pleased, after the Bishops were up; which they *could* never have done *Legally*, nor *would* ever in *Fact* have attempted to do, had the Act of Continuation expressed in the *Schedule* extended to *them*, and equally Adjourned *Both Houses* of Convocation.



F I N I S.

## A D D E N D A.

**U**Pon a Review of these Sheets, as they came from the Press, I found, that there were some Passages in them, which it might be proper to explain, or confirm by new Proofs; in order either to give further Light into the Subject, or to prevent a Cavil. I determin'd therefore to make some Additional Remarks; the rather, because they would give me an Opportunity of examining several Authorities, produc'd by the Asserter of the Archbishop's sole Power, which I have omitted in the Course of these Papers to consider, and could not easily reduce to any of the Five Heads, under which I have there treated of the Schedule. The Reader will find, after he has given himself the Trouble of perusing these Additions, that, either in These, or in the Book it self, I have accounted for every Precedent, which that Writer insists on. This is a Task, which I was far from proposing to my self, when I first enquir'd into the Nature and Force of the Schedule: but I found, as I went on in these Enquiries, that they gave Room for it, tho' they did not absolutely require it; and I was willing that the Reader should have before him, at one View, all that was necessary to determine his Judgment, in that part of the Dispute, which depends on Authorities. The General Reasonings, with which the Asserter introduces these Proofs, I have consider'd also in a Separate Tract; which is now ready for the Press, and may soon see the Light, if it shall be judg'd proper to trouble the World with any thing further on this Argument.



Page 1. L. 19. "The Controversy about *Adjournments*,  
 "at present depending] The Word, *Adjourn*, which I  
 frequently use in these Papers, is objected against by the  
 Writers on the other side, as a *Parliamentary* Term, which is  
 not of *Synodical* Use, or Extraction; and is design'd to insi-  
 nuate a Parity of Constitution in the Point debated, between  
 the two Houses of *Parliament* and *Convocation*. It is fit there-  
 fore that I should here justify that way of Speech; which  
 may be done very easily. All the Objecters can mean, is,  
 That the *Acts* of Convocation are drawn up in *Latin*, and  
 not in *English*; and consequently the Adjournments are there  
 entred by the words, *Continuavit*, and *Prorogavit*. But when we  
*Translate* these Terms, and speak of them in our own native  
 Tongue, there is no Term that can so properly be em-  
 ploy'd as that of *Adjourning*. The Entries in the Books of  
 the House of Peers are most of them in the same Language,  
*Dominus Cancellarius Continuavit*, or *Continuavit & Proroga-*  
*vit præsens Parliamentum*. But when we speak *English*, we do  
 not say, that the Lords *Continu'd*, but *Adjourn'd* themselves to  
 such a Time; and so therefore *Heylin's Extract* from the Up-  
 per House Books of Convocation, and the Authentick  
*Abridgement* of them made for the Use of Archbishop *Laud*,  
 speak perpetually. Nay, even the Latin word, *Adjornare*,  
 hath, in the King's *Writ*s for dismissing the Convocation, been  
 oftentimes employ'd; as may appear from the following In-  
 stances. A *Writ*, preserv'd in the Book of *York Province*, A. D.  
 1609. or 1610. recites, how that Convocation *per Breve*  
*nostrum Vobis directum usque ad & in instantem, 15 diem Nov.*  
*adjornata fuerit* — adding *Nos* — *ulterius duximas adjornan-*  
*dam* — & *ideò Vobis mandamus, quòd ad & in 20 Nov. --- modo*  
*debito Adjornetis & Continuetis*. Another, Tested 9 Feb. Regni  
 19. bears, that the Present Conv. *post Diversas Adjornatio-*  
*nes, & Continuationes usq; ad 9 Feb. Adjornata & Continuata*  
*fuerit*; and commands the Archbishop then to *Dissolve* it. And  
 so the *Writ*s ran in this Province, as I find by the Words of  
 the *Abridgment*, about this time; which are these — "June  
 "5. 1621. Archbishop by the King's *Writ*, *Adjourns* (so in  
 "the King's *Writ*, *Adjornetis*) to the 15th of Nov. 1621.  
 "Nov. 15. 1621. Archbishop, by the *Writ*, *Adjourns* to —  
 "Nov. 21. 1621. And, if I am not mistaken, there are se-  
 veral *Modern Writ*s, so worded, and now in the possession of  
 Mr.



Mr. Tyllot. There is no Colour therefore for rejecting a Term, the Use of which is justify'd by such Authorities. And yet the Asserter of the Archbishop's sole Power avoids it as carefully, throughout his Book, as if the Cause would be lost by employing it; And the *Historian* of the last Convocation sets himself very solemnly to decry it: whose subtil Reflections, and mistaken Guesses on this Head [ p. 34. ] would afford Ample matter of Diversion to the Reader, had I Time, or were I in the Humour to pursue them.

P. 2. l. 41. " In 1529. - It was customary to Adjourn in " *Scriptis*, that is, by a written Form, which was afterwards " call'd the Schedule of Adjournment. ] These Adjournments in *Scriptis*, were undoubtedly by a Schedule, or Formal Instrument; as the Asserter of the Archbishop's Right allows. And This therefore is the Language of the Acts of this very Convocation; which, on Apr. 14. 1536, say, *Reverendissimus Pater — dictam Convocationem — &c. juxta Formam cujusdam Schemulæ, quam tunc & ibidem publice legit, penitus dissolvebat, Cujus Tenor sequitur.* I have printed the Form in these Papers; † and † p. 46. would here observe only upon it, that it ends with the words, in *his Scriptis*, as most of the Schedules ever since have done. [ See the Archbishop's Right. p. 39. ] And this gave Occasion to the Register, in the Instances alledg'd, to mention the Schedule in these Terms, which he borrow'd from it. And thus afterwards in 1562. when the Use of it ( for some time intermitted ) was reviv'd; the Phrase of the Upper House Acts, on the first Day in which it was practis'd, is; *Commissarius — continuavit & prorogavit in Scriptis, prout in Schemulâ per eum Lectâ plenius continetur.* Whenever therefore an Adjournment is enter'd, as made, in *Scriptis*, the meaning is, that it was done by a Formal Instrument, or Schedule; and the Sense of this Phrase appears by it's Use on several other Occasions. For, at one time, it is said, that the most Reverend pronounc'd the Absent Contumacious, in *Scripto, ut ibidem.* [ See Sess. 19. 1529. ] At another time, prout in *Schemulâ ibidem publice Lectâ continetur.* [ See 25 Nov. 1534. ] And on Jan. 21. 1530. when the Archbishop made Answer to the Abbot and Chapter's Protestation, the words of the Common Extract are, *ut in scriptis ibidem:* but a larger Transcript from the same Act informs us, That this Counter-Protestation was reduc'd into an Instrument, there at length enter'd -- *Reverendissimus — fecit & legit Protestationem in scriptis redactam, Tenore verborum sequentium.* IN DEI NOMINE AMEN. Nos Willielmus permissione div. Cant. Archiepiscopus &c. pro Nobis,

Nobis, & Confratribus Suffraganeis nostris, ac omnibus aliis & singulis Prælatiſ & Clero noſtræ Cant. Prov. in hac Convocatione &c. præſentibus, ac Jus interreſſe in eadem habentibus, expreſſe in hiis Scriptis, proteſtamur, &c. I urge theſe Inſtances, to prevent a future Cavil on the Words, in *Scriptis*; as not knowing, but that the Gentlemen, who have pleaded from thence, that the *Schedule* muſt be as Old as 1529, may, when they ſee, how little ſuch a Scheme makes for their purpoſe, endeavour to retract their former Aſſertion, and interpret the Words otherwiſe.

Pag. 3. l. 35. " 'Tis true, In the Acts of the preceding " Councils of *Piſa*, *Conſtance*, and *Baſil*, the *Schedule* is men- " tion'd. ] Some time after the firſt Sheets of this Book were wrought off, I met with this Remark, as to the Council of *Baſil*, in an *Answer* to a *Third Letter* about the *Execution of the Parliament Writ*, &c. p. 9. c. 1. The Author of it may ſee, I was aware both of That, and Other Inſtances of the ſame kind, and have briefly accounted for them. What he adds about a Speech made in Convocation, concerning the *Riſe* of the *Schedule*, I muſt take the Liberty to tell him, is not true: The Perſon he means, was far from ſaying that the *Uſe of the Schedule* abroad began with the *Lateran Council*; but only, that it appears *then firſt* to have been regularly and conſtantly practis'd: in which Opinion he was not deceiv'd; though this Gentleman be, in his Recital of it. If he was preſent, at the Debate, as I believe he was; either his *Apprehenſion*, or his *Memory* exceedingly fail'd him.

P. 10. l. 9. " That a *Summons* from the Prior and Chapt. of " Cant. in 1532. wanted this *Clause*: perhaps it did, for a very " good reaſon. ] The late *Answerer* of the *Third Letter*, about the *Entry* of the *Parliamentary Writ*, &c. ſeems to offer ſomething that prejudices this account: For he tells us, that there was a *New Choice* of *Proctors* upon this *New Summons*; and cites a *Register* for it. [ p. 9. col. 1. ] What there *was*, or *was not*, in a *Particular Church*, I am not able to ſay. The *Old Proctor* might be dead, or the *Chapter* might think fit to *Revoke* their *Proxy*, and depute another Perſon; as *Chapters* frequently did (†) when an *Attendance* in Convocation, and a freedom from the *Obligation* of *Reſidence*, was more welcome to One Member than to Another. But whatever of this kind might happen in a ſingle Inſtance or two; it is certain that a *New Choice* was not *requiſite* upon the foot of this *New Summons*; but only *New Inſtruments*, authorizing the ſame *Proctors* to appear before the *Guardians* of the *Spiritu-*  
find

(†) This, perhaps, may be *News* to the *Answerer*: and, be-  
cause I



find him very averse to entertain any thing that is so (unless where it makes for his Point), I shall here ease him of the Trouble of those fruitless Searches to which his *Suspensions* and *Unskilfulness* incline him, by producing the Evidences of it. They shall be drawn from the Records of one single Chapter, and bounded within the Years, thro' which the Convocation of 1529. extended. The Church of *Exeter* chang'd their Proctors *thrice*, during that Convocation; and, which is more, made *No Change* of them, when the *New Summons* issu'd from the *Guardians*; at least, *No Act* of it appears upon their Registers. 4. Jan. 1530. Mag. T. Brerewood, & T. Sotheron, & Adam Traves *ad comparend' pro Capitulo in Convocatione* -- which was to meet on the 12th of Jan. 1530. after an Adjournment from the 25th of Octob. before, made by the sole Authority of the Synod. Dec. 3. 1531. *Revocato Procuratorio aliàs factò, de novo constituerunt Magistros Joannem Chambron Præcentorem, Rollandum Lee, Cornubiæ, Th. Brerewood, Barum Archidiaconos, & Joh. Smyth Canonicos.* This was during the Recess of the Convocation, on Nov. 7. and in order to it's reassembly; on Jan. 16. 1531. Jan. 29. 1535. *Capitulum constituit Magistros Joh. Chambron. Præcentorem. Georgium Carew, Totton, Th. Brerewood. Barum Archidiaconos, et Ric. Manchester Eccl. Cath. Canonicos Procuratores pro Convocatione Cleri* -- which was to *Assamble* and *Sit* (as it did) on the 5th of Feb. following, upon a *Royal Writ* of *Prorogation*.

alties, who had at first been empower'd only to appear before the Archbishop. His *Mandate* ran, *ad comparend.* CORAM NOBIS, and so did the King's Previous *Writ*, \* upon which \* *Coram Vobis.* that *Mandate* issu'd; and therefore the *Deputed Clergy* could not regularly appear *Coram Custodibus*, &c. till their *Procuratorial Letters* were so fram'd. And after all, perhaps, it is such a *New Power* as this, given to the *Old Proctor* or *Proctors*, that the Answerer mistakes for a *New Choice*. 'Twas to prevent this Trouble of issuing *New Summons* and sending up *New Instruments*, that, in the next Vacancy of the Archbishoprick, upon *Cranmer's Attainder*, the Clergy were call'd by the Dean and Chapter of Cant. to appear [Oct. 22. 1555.] *Coram Nobis, vel nostris Locum tenentibus, vacante Sede prædictâ, seu præfato Reverendissimo in Christo Patre Domino Archiepiscopo Cant. qui pro tempore fuerit, Sede plenâ, vel suis in hac parte Locum tenentibus aut Commissariis*, because it was expected that Cardinal Pool would have been (tho' he was not) in possession of the Archbishoprick, before that Convocation ended: In which Case, the Clergy having brought up Previous Powers of Treating either with the *Guardians*, or the Archbishop for the Time being, as it should happen; there would have been no necessity of a *Resummons*. There are several other Mistakes, committed by this Writer, on the same Head, and within the same Paragraph; which, as not belonging to the present Debate, I here forbear to examine. One thing only I cannot but observe on his next Paragraph, where he prints a *Marginal Note* made on the *Mandate* of 1529. in *Tonstal's Register*, by the Compiler of it: He curtails it in his Recital; I hope, not designedly; but, however, very unluckily: for

for he omits the most material Words of it, and which least countenance a Notion, that he there espouses. The Note, as it lies in the Register, runs in these Terms. *Nota quodd, pendente istâ Convocatione, expiravit Reverendissimus Pater Cant. Archiepiscopus. Et tunc directæ erant aliæ Literæ per Priorem & Capitulum Ecclesiæ Christi Cant. Sede Archiepiscopali vacante, Reverendo Patri Domino Joh. Lond. Episcopo ad Convocandum Prælatos & Clerum, ad prosequendum Acta, & Gesta in ipsâ Convocatione [Continuatâ, & Pendente, ac Gerend. Exercend. & Agenda.]* The Words included within the Hooks are (with some others) omitted by him; tho' they shew, that the Convocation, summon'd by Warham, was Contin'd, and Pending, even after his Decease; and could not therefore owe its subsistence to his Mandate (as the Modern Pretence is) but to the King's Writ, upon which it was fram'd. And it is strange therefore to find the Answerer arguing from this very Instance, that the Archbishop's Power in Convening the Clergy, was not then thought Ministerial. The Reason he gives for this odd Inference is, because, otherwise, the Clergy would have had no Scruple of attending upon the King's Writ of Prorogation, after the Archbishop's Death. I find he is altogether in the dark as to these matters: The Clergy had no Scruples, for the Case was plain; Or, if they had any, those Scruples were owing to the Notion of the Archbishop's Ministerial Power, now obtaining, since the Submission; and to their Knowledge of the Tenor of the King's Writs of Summons, and Prorogation. Particularly, the Writ of Prorogation, upon which they now attended, being the first of that Kind that ever issu'd, and giving us further Light into the reason of this New Summons from the Prior and Chapter of Cant. shall be transcrib'd entirely into these Papers.

Henricus, &c. Reverendissimo --- Willielmo Archiepiscopo Cant. &c. Sal. Cum Nos nuper, quibusdam arduis & urgentibus Negotiis, Nos, Securitatem, & Defensionem Regni nostri, & Subditorum ejusdem concernentibus, per Breve nostrum Vobis mandaverimus, quatenus, præmissis debito intuitu attentis & ponderatis, universos & singulos Episcopos vestræ Prov. ac Decanos, & Priores Ecclesiar. Cathedralium, Abbates, Priores, & alios Electivos, Exempt. & non Exempt, nec non Archidiaconos, Capitula, Conventus, & Collegia totumq; Clerum cujuslibet Diœces. ejusdem Prov. ad Comparend. coram Vobis in Monasterio nostro S. Petri Westm. vel alibi, prout melius expedire videritis, cum omni celeritate accommodâ, modo debito Convocari faceretis; ad tractand. consentiend. & concludend. super præmissis, & aliis quæ sibi clarius exponerentur ex  
parte

*parte nostra : Nos, diversis Causis & Considerationibus specialiter Nos moventibus, de advisamento Concilii nostri Convocationem per Nos prætextu Brevis nostri summonitam, & apud Monasterium prædictum ad præsens tentam, duximus prorogandam. Et ideo Vobis mandamus, quòd Convocationem illam hâc instante die Merc. ad & in 5. diem. Nov. prox. futur. prorogetis, & eandem ad diem illum, apud Monasterium prædictum, Teneatis. Teste meipso, apud Westm. 15. die Maii, Anno Regni nostri 24.*

Let the Answerer, at his leisure, view this *Writ*, and consider, whether the Convocation could regularly reassemble at the Time prefix'd by it, without a Resummons; or whether there be any thing in it, which should hinder us from concluding, that the Archbishop's Power in Convening the Clergy was now held to be *Ministerial*. It begins with a Recital of the King's Original Writ to *Warham*, affirms the Convocation to have been *summon'd* by It, [not by *Warham's* Mandate]; in *vertue* of that *Summons*, orders him to *Prorogue* it to a certain Time, and Place; and then, and there to *Hold* it; and therefore no body but *Warham* could have *Held* the Convocation, when the Time expir'd, without a New Order from the Crown for so doing. And when that once issu'd, the Clergy could have no *Scruples* about their attending before the Guardians; Nor had they any, for they met, and acted under them on *Feb. 5. 1532.* for several Sessions; and particularly discharged the two Universities and several of the Religious from Contributing to the *Great Subsidy*, while the Prior and Chapter presided. 'Tis true, on *Feb. 10.* a New Mandate issu'd from these Guardians, for a New Call of the Clergy to *March 17th*; not to satisfy any *Scruples* that had been rais'd (for then the Convocation would have stood still, till the Returns on this Mandate were made); but in order to their bringing up Powers of Treating with the New Archbishop, whose *Consecration* was suddenly expected: but the delay of his Bulls at *Rome* retarded it, till *March* the 30th. And on the next day, he acted, as Archbishop in Convocation: Which was, all this while, *Continuata & Pendens*; was the same Convocation, and consisted of the very same Members, that met upon Archbishop *Warham's* Call; unless where a Chapter or two might, at their own Discretion, have chang'd them.

P. 16. l. 23. " By the present Papal Canon-Law, Bishops alone are allowed *Definitive* Voices, &c. ] The most Famous *Provincial Synods*, held after the Council of *Trent*, were those of *Milan*, under Cardinal *Berromæo*. The



*Acts* of them are printed in the Tomes of the Councils; but more largely, *Brixia*, 4to. 1603. The Strictest Nicetys of the Canon-Law, then obtaining, were observed in these Meetings. To them both *Capitular* and *Rural Proctors* were summoned; not in order to mix in the *Debates*, or *Conclusions*; but merely to Offer what was for the Interest of the several Bodies they represented. The *Bishops* alone had *Decisive Votes* in the Synodick Decrees; and, consequently, in appointing the Times of the Several *Sessions*: which was done by a *Placetne Vobis?* and, upon their Consent, the *Archbishop* decreed them, The Subjection and Slavery to which the Other Members of the Synod were reduc'd, may appear from this Instance. In one of the *Publick Congregations*, preceding a *General Session*, the *Proctors of Chapters* complained of the Infringements of their Liberty, in the following Terms. *Illustrissimi & Reverendissimi, &c. Quoniam antequam Leges præscribantur, ad Consultationem, ut Capitulis significatum est, non vocamur, & Simplici Auditione ipsarum Legum scriptarum, quæ variæ sunt, & multiplices, intelligere non possumus, an per eas Capitulis & cleris aliquod fiat præjudicium; cum debitâ reverentiâ petitur, ut aut concedatur nobis ipsarum Legum Copia, aut aliâ aliquâ ratione huic nostræ Postulationi satisfiat, ut liceat nobis ei muneri satisfacere pro quo hîc missi & vocati fuimus. Aliter cogemur protestari, nos eas Leges in parte tantum admittere, prout etiam protestamur, Nos aliter ipsis non assentiri, si hæc nostra Postulatio ejiciatur, quam attulimus; ne Taciturnitas Nobis aliquod valeat parere præjudicium.* This Demand was rejected, and They at last were prevailed with to withdraw it. At one time the Archbishop answered such an Application, by telling them; *Irent, Scirentq; ipsum unâ cum Sanctâ Synodo operam daturum, ut ea statuât, quibus Clericali Disciplinae. animarumque saluti optimè consultatur: Ipsi verò, pro eo ac deberent, Synodi decretis parendum atque obtemperandum fore.* Upon such another Occasion, *Illustrissimus* — Respondit se unâ cum Sanctâ Synodo, pro eo ac æquum esset, illorum rationem habiturum: ipsi verò ac cæteri, si quid haberent, adirent Reverendissimos Deputatos, quibus omnia exponerent, & a quibus suo tempora audient, quid Sancta Synodus in Negotijs, &c. statuendum decreverit. We are not to wonder that They, who had so little of a *Consultive Vote* left, even in matters that related to their Own Interest, were not admitted to a *Decisive Voice* in the Synodick decrees of Adjournment. This was the Effect of Papal Tyranny abroad: but here at home, in this Country of Liberty, matters were more gently carried. The Clergy had not only a Right of Debate, but were allowed a *Negative*, in all Con-

ciliary

ciliary Acts: and that *Negative* here, as every where else, was the Foundation of their Right to concur in Adjournments.

P. 18. l. 36. “ *Afterwards* indeed, when the *Legate-born* “ had made, &c. The Continuations generally ran in his “ *Name, &c.* yet still some footsteps remain in the Acts of “ the Interposition of the *Bishops* and *Lower Clergy*.] ’Tis of this *Legate-born*, and these *Times* that Dr. A. speaks in that Passage of *Rights, Powers, &c.* [p. 492.] which the Answer to the Third Letter cites. “ When they [the *Lower Clergy*] “ adjourn’d, it was sometimes their *Own Act*; but oftner, “ at the Command of the Archbishop. This Power belong’d “ to him of Course when the Two Houses were united; “ and he preserved it, after they were Separated. Which being mentioned *Occasionally* only, in a Large Treatise of Convocations, before a strict Enquiry had been made into this Point of Adjournment; might easily have been express’d with less Exactness, than it is, without any Blemish to the Writer. But, as it happens, he so stated it *Then*, as he would, and must have done, had he wrote *Now*. For it is certain, that, soon after the Division of the Two Houses, the Period to which he referr’d, the Adjournments of the *Lower Clergy* were sometimes, their *Own Acts*; but made oftner, at the Command of the Archbishop: and as certain, that the Power exercised by the Archbishop, upon the Separation, sprung from what he Claimed and Practised, during the *Union*. The only word, in what he says, lyable to Misconstruction, is the word, *Of Course*; which seems to ascribe to the *Legate-born* an *Original*, whereas he had only, a *Customary Right*, founded upon *Usurpation*. And yet he says only, that *Our Archbishops*, e’er the Division fully obtained, had, *of Course*, a Power of *Commanding*, or *Directing*, the *Adjournments* of the *Lower Body*; not that *He* himself, *of Course*, by his *Own Act*, peremptorily adjourn’d them. It seems, he had Insight enough, even *Then*, into this Argument, to avoid such a Concession; and to state the Point at first, as he has since, upon stricter Searches, found himself obliged to maintain it. And were not some Gentlemen extreamly disposed to find fault with every thing that comes from His Pen; they could hardly have observed any thing in This Passage, to the Disadvantage either of *Him*, or of the *Cause* for which he is concern’d.

P. 20. l. 7. " There is another Expression in these Elder  
 " Acts, the Archbishop being said to continue, in *præsentia*  
 " *Prælator' & Procurator' Cleri.*] Of this there are many In-  
 stances in the Registers ( besides those I have alledg'd ) espe-  
 cially in the more Antient ones. 1369. 12. Kal. Feb. *Domi-*  
*nus----* quoad Concilium sive Convocationem hujusmodi prorogavit  
*hunc diem cum dictis Confratribus suis & Procuratoribus præsentibus*  
*tunc ibidem.* 7 Kal. Feb. 1369. The Archbishop's Commissary,  
 in *præsentia* quorundam Procuratorum Cleri & Religiosorum Prov.  
 Cant. *ibidem* existentium Continuarvit & Prorogavit dictum Concilium  
 sive Convocationem usque ad, &c. 1371. Apr. 24. In Domo  
 Capitulari una cum cæteris Prælati & quorundam Procuratoribus  
 sedens continuavit dictam Convocationem cum Procuratoribus Prela-  
 torum & Cleri. Prov. Cant. præsentibus. 1376. 2. Feb.. The Arch-  
 bishop's Commissary, in *præsentia* nonnullor' Procuratorum Cleri con-  
 tinuavit --- 7. Kal. Martij. 1376. *Dominus in præsentia Episcopi*  
*Elyen' & non nullor' Procurator' Cleri continuavit.* 1377. 4 Id. Nov.  
 (and diversetimes afterwards) the Archbishop, or his Commis-  
 sary, in *præsentia* quorundam Procurator' Cleri continuavit. 1379. 3.  
 Id. Maij. The Commissary, in *præsentia* quorundam Procuratorum  
*ibidem* Comparentium pro Tribunali sedens, adjourn'd, 16 Kal.  
 Martij, 1379. *Commissarius in præsentia* quorundam Procuratorum  
 Cleri Continuarvit. 1406. 9 Jun. *Archiepiscopus---* vocatis ad hoc  
 Procuratoribus prædictis, Continuarvit Convocationem. I insist on these  
 Passages, because some of them take Notice of the Presence of  
 the Bishops as well as Clergy, at the Archbishops Continuati-  
 ons; and, consequently imply, the Concurrence of Both to what  
 was done, or of Neither. That they imply the Concurrence  
 of Both I have reason to apprehend; both because, by the  
 Known Rules of the Canon Law, the Bishops Consent was  
 to intervene, on the account of the *Decisive Vote* which they  
 had in all Synodical Affairs; and because in the Acts of One  
 and the Same Convocation ( viz. that of 1488 ) I find it in-  
 differently said, that the Archbishop continued with the Con-  
 sent of his Suffragans, or, in their Presence. But if the Consent  
 of Neither be imply'd in these Forms, then were they certainly  
 owing to the Usurpations of the Legate-born on the Rights  
 of the Other Members; and consequently, the Exclusion of  
 the Clergy from their Share in Adjournments can be of no  
 Prejudice to them, at a Time, when the Bishops themselves  
 were equally excluded. Indeed I will not deny but that the  
 Archbishops of those Ages did often Adjourn *de die in diem*,  
 without asking, or taking the Consent of any other part of  
 the Synod. Their Commissions of Presidency are a Proof of this,  
 that



that will bear no dispute: for there, their Commissaries are sometimes impower'd, *ad continuand. dictam Convocationem ad dies alios ulteriores*; *secundum quod VOBIS videbitur EXPEDIENTS*; or *prout eis vel eorum alteri videbitur fieri necessarium vel opportunum*. \* But neither was this Power assum'd by them so constantly, as is pretended; and when it was, there were peculiar Reasons for their claiming such a Power, which have long since ceas'd. The Convocation was in those days an Assembly of greater Business then afterwards, and sat usually, from day to day, for the dispatch of it: and when they did so, there was no room for *Deliberation* about the *Time* to which they were to Adjourn; and so the Formality of declaring the Adjournment did of course belong to the Archbishop; and was entred in *his* Name only: This open'd the way to the Use of like Forms, and to his assuming like Powers, when the Adjournments were to a Time, beyond the next day; and there were two things, which facilitated such a Practice, the *Custom* of *Parliament*, and his *Legatine Character*. The Parliament in those days, was usually continu'd by Royal Power, without the Consent of the States, either ask'd, or given. The Convocation, which adapted it self as nearly as could be to the Civil Model, in many other respects, followed it in this also; the Archbishop took upon him a Royal State in all the Proceedings of it, particularly in the Point of Adjournment. And the Clergy were not unwilling to submit to any thing, which rais'd the Archbishop's Character; as knowing, that whatever Power he had, it would all be employ'd, for the Benefit of the Body: and so this Encroachment obtain'd. His *Legatine Powers* also contributed not a little to establish it. For, by these, he pretended to be something more than a Bare *Metropolitan*, and carry'd his *Jurisdiction* over the Suffragans and Clergy of his Province, in many Instances, to a greater Heighth than what the General Rules of the Church allowed of; and in *This* Instance, among others. That his Legatine Character was of real Advantage to him in this Point, I have reason to believe, because I find that in after-times, when Cardinal Peol, assembled Synods, as the Pope's *Legate à Latere*, he was allow'd such a Power: the Bishop of London's Mandate Executory \* dated 10. Nov. 1555. did then summon the Clergy to appear in *Synodo Legatina*, to be held at such a time and place, † *cum Continuatione & Prorogatione Dierum, & Horarum, ex tunc sequentium & Locorum, si, & quatenus dicto Illustrissimo & Reverendissimo Domino Cardinali Legato antedicto ita expediens videatur*; and the Cardinal himself † White-hall Chapel, 2. Dec. 1555.

(†) In his  
Mandate  
of Convo-  
cation da-  
ted 6. Id.  
No. 1555.  
— and of  
Prorogati-  
on, dated  
3. Kal.  
Apr. 1557.

∴ So the  
Commission  
of Feb. 7.  
1575 runs.

† A.D.  
1534.

self in his Mandates; affirms that Synod to be both *Conven'd*, and *Prorogu'd*. *Auctoritate Apostolica nobis in hac nostrâ Legatione concessâ & commissâ*: † Whereas, when he summon'd the *Provincial Synod* of 1557, as *Metropolitan* only, he neither claim'd nor exercis'd any such Power. Nor have I met with any One Record within the last 200 Years (except those which relate to *Pool's* Legatine Synod,) wherein a Power of *Proroguing* the *whole Convocation* is ascrib'd purely and solely to the Archbishop. The Commissions of Presidency issu'd by the Archbishop, or Dean and Chapter of *Cant.* during that time, say nothing of it; but run, *ad hujusmodi sacram Synodum — de die in diem, ac de loco in locum; si videbitur expediens, continuand. & prorogand. prout in eâ parte fieri assolet, & consuevit; (∴) not, secundum quod Vobis videbitur Expediens*, as those of 1460, I lately mention'd, are worded. There is great Reason, therefore, to think those Elder Forms of Continuation, which mention the Archbishop's Name only, to be Owing in some Measure to his Title of *Legate-born*, and to some Extraordinary Pretensions which he grafted upon it. These Pretensions abated gradually, towards the time of *Henry the VIII.*, even while the *Title* continu'd: But in *His* Reign, the *Title* it self (with all the *Appendages* of it) fell, and was renounc'd in open Convocation, by Archbishop *Cranmer*. †

Pag. 24. l. 20. "The Clergy meet *Synodically*, in the Proper Sense of that word, on the *Day* of the *Synodick Session* alone; and even *Then* only; when they appear above, "in the *Locus Synodi*, &c.] This Account is taken, not only from the *Language*, and *Practice* of Convocation, but from the *Tenor* of the Archbishop's Mandate, which runs -- *ad comparand. coram Nobis in DOMO CAPITULARI --* such a Day *cum Continuatione & Prorogatione dier. & Locor. ex tunc sequentium, si oporteat. -- ad tractand. super arduis &c. Ipsi TUNC & IBIDEM -- exponendis, suâq; sana Consilia & Auxilia super eis impensur. ac hiis quæ IBIDEM ex DELIBERATIONE COMMUNI --- ordinari & statui contigerit consensur. &c.* The Synodical Appearance of the Clergy, is, by the very Terms of the Mandate, suppos'd to be in the *Upper House* and before the Archbishop only; There they are required to Impart their Counsels and Aids; there the *Synodical Treaty* is to be held, and Consent given, from *Session*, to *Session*, as Occasion shall require. But what they are to do apart, in their *Own House*, the Mandate takes no Notice of; lays no Injunctions, and conveys no Powers to this purpose; it is a *Synodick Summons*, and therefore mentions the Members only as appearing and acting in

in *Synod*, strictly so call'd. What they do otherwise, in a *Preparative* way, is owing to *Custom* and *Usage* alone; which was introduc'd at first by the *Permission* of the *Archbishop* and *Bishops*, and was establish'd afterwards by *Common Agreement*, and is now the *Law* of Convocation. But the *Mandate* is still drawn, as if there were no such *Custom*, and regards the *Synod* only, as *One Entire Body* of men, debating, consenting and decreeing together: and this therefore, in *Propriety* of Speech, is the *Synodick Action*, and *Convention* of the *Prelates* and *Clergy*.

P. 28. l. 2. "The *Schedule* expresseth not the *Consent* of the *Bishops*, but supposeth it.] One would scarce think it possible, That the *Chief Advocate* for his *Grace's* sole Power, who hath written a large Book upon the *Schedule*, and pretends nicely to have enquir'd into the *Form*, *Nature*, and *Effects* of it, should yet be so much in the Dark, as to apprehend, that the *Consent* of the *Bishops* is express'd in it. And yet these are his Words, "'Tis true, the *Archbishop's* *Schedule* usually runs, *Cum Consensu Fratrum* [p. 121.] Tho' this is so far from being the *Usual Tenor* of them, that I question whether there be any *One Instance* of this kind left even in *Mr. Mundy's* Faulty Instruments. Nor is this the only great Mistake he hath made on this Article. For he supposeth this way of adjourning by *Schedule*, to have been practis'd invariably, from 1529, at least, down to this time; whereas the Book of 1554 manifestly proves, that, for some part of that Period, it was diffus'd, and intermitted. He supposeth, that it was *Transmitted* all along, in an *Authoritative* Manner, from *One House* to the *Other*; and was a *Message in Writing*, which the *Archbishop* sent the *Clergy*, to notify to them the *Adjournment* of the *Whole Convocation*: when there is not the least Hint in all the Books of either *House*, that such a *Transmission* was ever practis'd, till lately; and there are the strongest *Presumptions* in the *World*, that it was never practis'd. This Principle, is the *Corner-stone* of his whole Building; which he takes Care therefore to inculcate very often and earnestly, and with such an Assurance of it's Truth, as is equal'd by nothing but the Assurance with which he denies himself in his *Late Reflections* [p. 18.] to have layd any Stress upon it. In order to this *Transmission*, he further supposeth, That the *Schedule* was constantly Sign'd by the *Archbishop*, and Attested by a *Publick Notary*, to give the *Lower Clergy* a more *Legal* and *Solemn Testimony* of what was done above; when both the *Signing*, and *Attestation* are certainly Practi-



ces but of yesterday, compar'd with the Time to which he refers ; and the *Attestation* in particular, was taken up by the Register, merely to save himself the Trouble of Drawing an *Act* upon it, and to supply the Place of a Regular *Journal*. In these, which are the *main Circumstances* relating to the Schedule, he is totally mistaken ; and yet ventures in a very Unbecoming Manner to triumph over the Unskilfulness of Others : particularly, he insults the Worthy Author of the *Expedient*, as not *fully instructed in the Right, or the Grounds of that Right, on either side*. [ *Refl. p. 3.* ] when yet he knows, that the Design of that Writer was not, to enter nicely into the *Merits* of the *Cause* ; but, waving *Disputes*, to propose a Scheme of *Accommodation*, consistent with the Claims of both Houses. His Design was well layd, and well executed ; and nothing but the Averseness of some Men towards hearkning to any Methods of Peace, could have rendred it Abortive ; or have prevail'd with them to treat both the Writer and the Work with such Harsh and Offensive Language. The *Resolutions* of the Committee of Feb. the 9th shew, that the Proposal he made was not Impracticable, if there had been the same sincere Intentions of Ending this Difference on the One side, as there were on the Other. But we have since found, that his great Mistake lay, not in proposing an *Improper Expedient*, but in proposing *Any* at all ; when it was determin'd to reject all Offers, that did not give up the Rights of the Lower House, and render its Acting, and very Being precarious. I could not forbear saying thus much in Vindication of that *Paper*, which whoever reads, and compares with the *Reflections* made upon it, will easily see, that the One wants no Defence, and the Other needs no Reply.

P. 30. l. 26. “ And had the *Lower-Clergy* been there also, “ they would not have enjoyed a greater Priviledge in this “ respect, than their Bishops.] They were there, though not in *Person*, yet by *Proxy*. For Nov. 1661. the Prolocutor and Lower House of *York Province* by Instrument impower'd Eight persons (Members, partly of their Own Body, and partly of the Lower House of Convocation in the Other Province) ; giving them *Potestatem Generalem & Mandatum speciale pro Nobis, ac vice, loco, & nomine nostris, Omnibus & Singulis quæ in sacrâ Synodo sive Convocatione Cleri Prov. Cant. --- ordinari, statui, vel decerni contigerint Consentiendi, & Consensum & Assensum respectivè suos dandi & præbendi ; aliisque ex adverso ( si & quatenus videbitur expediens ) dissentiendi & contradicendi ; & generaliter omnia & singula alia faciendi, exercendi, & expediendi*

endi quæ in præmissis aut circa ea necessaria fuerint seu quomodolibet opportuna ; etiamsi mandatum de se exigant magis speciale quam præsentibus est expressum ; ET QUÆ NOSMET IPSI FACERE POSSEMUS, SI PRÆSENTES PERSONALITER ESSEMUS — The Original of this Proxy, Sign'd by Dr. Neile, their *Prolocutor*, in behalf of the whole Body, is lodged in the Registry of the Archbishop of *Canterbury* ; and, by vertue of it, the Resolutions of the Lower Clergy of the Province of *Cant.* included and determined those of *York* ; and, the *York*-Bishops sitting at the same time in the Upper-House, the Common-prayer-book passed, at once, in a *National Synod* : Wherein, I say, the Primate of *All England* presided with all the same powers, and in all the same Respects, as he would have done, if he had sat in a Synod of his Own Province only. Tis a Mistake therefore in the Asserter, to say, that where a Synod consists of the Representatives of Both Provinces, the Archbishop of *Canterbury* can have no such Jurisdiction over the Clergy of *York*, as he has over his Own, in his Provincial Convocations [ p. 21. ] For the Interest which the Archbishop had in Synodical Adjournments (the Point of Jurisdiction here intended) was so far the Same in This, as it had been in all Other Synods, that we find the Asserter himself, appealing solemnly to the Journal of 1661, \* for a Proof of it ; and observing that “ The Constant Stile of Continuati-

\* Reflect.  
P. 12.

“ ons in this Register is the same with that of 1640 --- Dominus, &c. de & cum Consensu Confratrum suorum Continuarvit & Prorogavit hujusmodi Convocationem sive Sacram Synodum Provinciale. The Joynt Sitting therefore of the Two Pro-

vinces, in the Matter of *Anne of Cleve*, can no ways account for those Passages in the Acts, where the Lower Clergy are represented, as Consenting to Adjournments. I add only, that the Conjunction of the Two Provinces was now Owing to their Parliamentary Call, \* as well as to the Royal Commission ; and was not so Rare a thing as the Asserter imagines. For in the Conv. of 13. Nov. 1515. I find the Parliamentary Clergy of Either Province so United, and writing a Letter to the Pope, thus subscribed ; Ex Cathedrali Ecclesiâ Apostoli

\* The Words of the Request to King in the Lords Journal

32. H. 8. are --- ut Negotii Discussio & Decisio committatur Archiepiscopis, Episcopis, Decanis, Archidiaconis, & Universo Angliæ Clero, JAM AD HOC PARLIAMENTUM CONVOCATIS. --- and the King's Answer there, is, that he was willing to refer it, Convocationi Cleri utriusq; Provincia. Where they are spoken of, as One Entire Assembly of Men, then in being ; which they could not be, but in vertue of their Parliamentary Summons. Ac super hiis Literas suas Patentes jussit confici. -- Upon which Letters Patents the Clergy proceeded the very next day ; and therefore those of *York*, as well as

*Cant.*

Canterbury, must have been attending in Convocation, before this Commission issu'd; notwithstanding that the Tenor of it runs, as if it had call'd them up for this purpose.

Pauli, London, die 25. Nov. A. D. 1515. Humillimi Servi vestri, ac Devotissimæ Creaturæ, PROLOCUTOR & CLERUS ANGLIÆ INFERIORIS DOMUS CONVOCATIONIS. And the very clause in the Proxy before-recited, [*ad expediend --- quæ Nosmetipsi facere possimus, si præsentēs personaliter essemus*] is it self a Sufficient Intimation, that the Personal Presence of the York-Clergy in the Convocation of Canterbury Province, was a Practice no ways unknown to our Constitution. And wherever it took place, I say, it made no Alteration in the Methods of Proceeding, and Adjourning. For whether the Province of Canterbury sat apart, or were Joyn'd with that of York; still the Archbishop, of Right, Moderated in the One House, and the Prolocutor in the Other. The Proxy therefore, I mentioned, was exhibited in the Lower House, and there admitted of Course; without any Application to his Grace: for the Upper House Journal of that time, doth, as I remember, take no Notice of it.

P. 31. l. 18. "In the Records of York Prov. there are "Footsteps also left of a Common Consent given to Synodick Adjournments.] I had produced some, before this, [p. 18.] from the Acts of 1311. To which I may add, from the Convocation held under Archbishop Kemp, A. D. 1426. That the Prelates and Clergy with their Referendary do in very pressing Terms, three several times, desire and † demand a Dismission of the Synod; and refuse to Act, if not comply'd with; and were accordingly, after some little Scruples, twice dismissed by the Presidents, upon such Applications. For the Manner in which they insist on these Prorogations, or Dissolutions shews, that they were not merely passive in such Acts of Authority, but, had a share in them, and consented to them, as they Then Concurr'd in all Other Synodical Acts, viz. by Petition and Proposal.

† *Præfatis Prælati & Clero, ac eorum Referendario semper magis ac magis dissolutionem Convocationis Postulantibus.*

Again. A. D. 1661. There is a very remarkable Passage in the Act-book of that Province, which proves, that the very Act of Opening the Synod by Prayers, &c. was not enter'd upon, but with Their express Allowance and Approbation first ask'd, and obtain'd. The Words of it are "Post Concionem, ad Domum Capitularem ventum est: ubi, Lecto Brevis Regio, una cum Literis Domini Archiepiscopi Mandatorialibus, Clero præconizato &c. percontabatur Præses --- Doth it please you that this Sacred Synod or Convocation do New Begin,

"to



“ to the Glory of God, and the Peace, and Publick Good  
 “ of the Church, and Kingdom of England? *Responderunt,*  
 “ *It pleaseth us.* Doth it please you to begin this Solemn and  
 “ Sacred Action with Prayer for the Assistance of God’s holy  
 “ Spirit? *Respond. It pleaseth. Tunc Præses, Oremus genuflexi, &c.*  
 Now from hence it very naturally follows, that, if the Particular Time of Opening the Session depended on their Consent, such a Consent was not less requisite and needful to the particular Time of Dismissing it also, as far as They themselves were concern’d in the Dismission. That is, if they were present Above, at the Prorogation, and did not return to their Own House, and Act; their very Presence imply’d their Concurrence --- If they were Absent, and then upon Business, they concurr’d to it, when that Business was over, by a separate Act of Adjournment. And This I reckon to be One Reason, why the Adjournments in That Province mention Their Consent so seldome, because, in Former Times, they were seldome Present at the Archbishop’s Continuations, or, if present, and not actually Consenting, were at Liberty to return afterwards to their Own House, and act as long as they thought fitting; The Archbishop’s Adjournment being only a Notice to them of the Time, at which he next intended to meet his Clergy.

Pag. 31. l. 21. “ *Tonstal’s Proxy* ] A like Clause with this in *Tonstal’s Proxy*, I have found also in several Proxies of this Province; where Power is sometimes given *Prorogationes quasunque ejusdem Convocationis de die in diem, & loco in locum fieri & continuari videndi, audiendi, & approbandi*: and such a Power of Approving carried in it a Power also of disapproving, tho’ that be not directly mention’d: and sometimes therefore the Instrument runs more expresse, *Continuationi & Prorogationi Dierum ex tunc sequentium & Locorum, si, & quatenus expediat, Consentiendi* -- A Form thus worded I have met with, as low as the Year 1698, sign’d, and seal’d by the Dean of Wells, for the Convocation in that Year summon’d. ’Tis true, such Clauses are not frequently found in these Forms; the Tenor of which is for the most part General, and impowers the Persons deputed to do only *quicquid hujusmodi Negotii Qualitas exigit & requirit*, without descending, in particular, to the Point of Adjournment. But the Case is the same as to the *Parliamentary Proxies* of the Lords Spiritual and Temporal: Many of which I have seen, running in these General Terms; but never saw a single one, that specify’d the Power of Consenting to Adjournments; tho’ ’tis certain the

Persons deputed by such Instruments, both have, and might exercise a Power to that purpose, if the House of Lords were divided in their Opinion about the Time to which they intended to Adjourn. It is therefore no wonder that the Clergy's Instruments should be usually silent on this Head; it is rather a wonder, that there should be a Mention of it in Any of them. For the Procuratorial Powers they sent up, were adapted pretty nearly to the Archbishop's Mandate; and That mentioning only Powers at large of *doing, whatever the Nature and Quality of the Business requir'd*; the Clergy, under these Words, which they took from the Mandate, included a Power of Consenting to Adjournments.

Pag. 35. l. 16. "Each House adjourns in *hunc Locum*, and "by this Phrase severally means that *Room*, where each sits "apart"] I forgot to observe, that the only Plausible Pre-  
tence for denying, *Hunc Locum*, in the Lower House Ad-  
journment, to mean the very *Room* in which the *Clergy* sit,  
was built on a Supposition, that the Prolocutor always pro-  
nounc'd these words out of the *Schedule*. But that Supposi-  
tion failing, the Explication given of these words must dye  
with it, having nothing else to support it. And for the same  
Reason, the Phrases, *Hæc*, *Hujusmodi*, or *Præsens Convocatio*,  
in the Lower-House Acts, must be allow'd to signifie the *As-*  
*sembly* of that *House*, as distinct from the *Upper*; because, if  
they were not pronounc'd out of the *Schedule*, the most Proper,  
Natural, and Obvious sense of them is, That, which deter-  
mines 'em to mean the *Company Assembled* in that *Place*, or  
*Room*, wherein, and to which the Prolocutor is, by the Act of  
the Day, expressly said to Adjourn. What would a Plain Man,  
not vers'd in the Subtleties of arguing, understand by *Præsens*  
*Convocatio*, but the *Assembly* then *present*? or what, by *Hu-*  
*jusmodi Convocatio*, but the *Company*, in whose Audience the  
Prolocutor speaks, and whom his Adjournment immediately  
affects? Particularly, when it is said (as it is, for Instance,  
Sess. 19, 20. 1588.) That such and such appear'd in the  
*Chappel*, where the Lower House sat; and that in the (*Pre-*  
*sence* of their *Actuary*) *Dominus Prolocutor significavit HIIS*  
*comparentibus, Convocationem HUIJUSMODI esse propagatam* —  
to such a Time, & — *ad HUNC Locum*; would not one  
imagine, that *Convocatio HUIJUSMODI*, meant the same  
thing as *HII Comparentes*? and that the words, *HIIS*, *HU-*  
*JUSMODI*, and *HUNC*, were equally to be understood in  
a Limited sense, as referring only to the *Persons* then *appear-*  
*ing*, and to the *Place* wherein they sat? And therefore at  
last

last we find the Asserter himself owning, \* that " the \* Reflect.  
 " Words *Hæc*, and *Hujusmodi*, determine *Convocatio* signify ra- P. 22.  
 " ther the *Lower* than the *Upper House*" or ( he might have  
 added with Equal Truth ) than the *Convocation in general*.

P. 37. l. 1. " 13 Nov. 1554. *Episcopus London Deputatus*  
*Commissarius, sive Præsidens.*] In the Preceding Convocation  
 of the same Year. The Acts of the Upper House preserved  
 in Bonner's Register, style that Bishop every where *Præsidens*  
*sive Locum tenens*, because he supply'd the Place of Archbishop  
 Cranmer then under Attainder. And in the Acts of York  
 Prov. 4. Feb. 1605. a President is Elected, Deputed, and Consti-  
 tuted by the Guardians of the Spiritualities, to do in Convo-  
 cation what they should have done, if present. *Custodes —*  
*nominauerunt, elegerunt, assignauerunt, deputarunt, & constituerunt,*  
 [ the Bishop of Bristol, Commendatory Dean of York ] in  
*Præsidem, sive Præsidentem Convocationis Prælator. & Cleri Prov.*  
*Ebor.* It were easie to multiply Instances of this kind with-  
 out Number. Instead of it I shall observe only from the Par-  
 liamentary Rolls, ( where the Language is much the same as in  
 the Acts of Convocation ) that when the KING himself is Ab-  
 sent, his Commissioner is sometimes call'd his Lieutenant, and  
 sometimes President of Parliament. See Rot. Parl. 51 E. 3.  
 n. 3. & 22. & 10. In the two first Numbers, the Prince of  
 Wales, who supply'd the KING's Room in that Parliament, is  
 nam'd *Le Prince President*, and in the third, *Son Lieutenant*. I  
 make no Other Use of this Reflection, but to shew, that  
 Mr. Mundy's Forms are Inaccurate, and not to be depended  
 on ; and that the Magnifiers of his Grace's Power have no  
 great reason to shew themselves so well pleas'd with a Title,  
 which is really so little for their purpose. They could not have  
 given a better proof of their Inclination to dispute every thing,  
 than by Questioning the Truth of this small Observation.

Pag. 41. l. 23. " I would not take the Liberty of this  
 " Appeal.] I have appeal'd to the Practice of the *Irish Con-*  
*vocations in the Point of Adjournment* only, wherein we are  
 more strictly concern'd ; tho' it be of no less Use and Weight  
 in many Others ; particularly, the Right of the *English Low-*  
*er House* to appoint Committees, without Consulting the Bi-  
 shops and the Power it hath over its Own Members, may,  
 with great reasonableness be inferr'd from the Like Right and  
 Power challeng'd and practis'd, within Memory by the Low-  
 er Clergy of *Ireland*. And that these Priviledges thus enjoy'd  
 by them, no ways loosen'd the Dependence, or lessen'd the  
 Distance, between the *Irish Presbyters* and their Bishops, is



known to all Those who know any thing of the state of that Church ; where the great Deference and Veneration which is , and always hath been payd to the Episcopal Character by their Inferiors, and the strict Union that hath ever been kept up between them , is a plain proof that the Liberties of the Clergy, as constituting a separate House from the Bishops, are consistent with all the Rules and Principles of Ecclesiastical Subordination. To this Purpose it may not be amiss to transcribe One remarkable Passage from the Upper-House Acts of the Last Convocation, held in that Kingdom. 21 May 1661. *Reverendissimus in Christo Pater Johannes Prov. div. Archiep. Armachanus, Primas & Metropolitanus totius Hiberniæ, Præses hujus Sanctæ Synodi, cæteri; Reverendissimi & Reverendi Patres Archiepiscopi & Episcopi, nihil alienum a pristinis admittentes moribus, Equis vehebantur ( dum Totus Clerus Domus Convocationis Inferioris duplici ordine constitutus procederet, & lentæ processions gressu in magnam spectantium oblectationem procederet ) ab Ecclesiâ Cathedrali S. Stæ. & Individuæ Trinitatis Civ. Dublin, ad Januam Occidentalem Eccl. Cathedralis D. Patricij, in Suburbis dictæ Civitatis.* The Manner of these Solemn Processions, observ'd at the Opening of the Irish Synods, is a short Proof, that the Priviledges of a Lower House are not Incompatible with the highest Marks of Distinction and Respect paid to the superiour Orders.

Page. 37. l. 42. "The Phrase, [*Prælatorum & Cleri. Prov. Cant.*] crept into his Instruments. ] It may be thought not Material to dispute the Age of this Phrase in the Schedule ; nor indeed doth the Issue of the Cause at all depend upon it. For allowing it to have *always* had place there, still the Exposition given will hold good, that the Schedule adjourn'd the Synod of the *Prælates* and *Clergy*, as it put an End to the *Synodical Combination* and *Correspondence* of the *Two Houses* ; which ceas'd, when the Bishops rose, and could again be set on Foot only at the *Time*, and in the *Place* of their next Assembly. However, tho' this Phrase be capable of a Sense no ways prejudicial to the Claims of the Lower House ; yet is it not so Proper, or so agreeable to the Language of the Upper-House Acts, as those Expressions, which mention the *Convocation*, or *Synod*, at large only, without Enumerating the Constituent Parts of it. For which reason I have shewn, that it ought justly to be rejected as a Novelty, introduc'd thro the Unskilfulness of Mr. *Mundy*. The Author of P. L. H. has hinted [ p. 19. c. 1. ] the Probable Occasion of his Mistake, from *Mundy's* Copying a Schedule, form'd upon a  
Royal

Royal Writ of Prorogation; when the Bishop of *London*, during the Vacancy of the Archiepiscopal See, did, \* by his *Commissary*, or *Substitute*, and in vertue of such a *Writ*, prorogue or dissolve the *whole Convocation*: for there the Schedule might more properly be said to dismis the *Prelates* and *Clergy*. And it adds some strength to this Conjecture, when I observe, that the *Lords Journals*, which, in Ordinary Adjournments, mention only the *Præsens Parliamentum*, as continu'd, do, upon a Royal Prorogation sometimes specify the Constituent Parts of Parliament. Thus, 2 Octob. 1563. they say, *Convenērunt, Domini tam Spirituales quam Temporales -- Qui cum Convenissent, adstantibus tunc etiam Populi, Burgensiumq; , ut vocant, satis magnâ frequentiâ -- Dominus Thesaurarius -- declaravit, CONVENTUM PROCERUM ET POPULI, QUEM PARLIAMENTUM VOCANT, in hunc diem destinatum, à -- Domina Regina differri in 5 Oct. 1564.*

Pag. 45. l. 8. "In the Books of *York-Province*, the Schedules are frequently Enter'd, but not sign'd ] The First Instance I have ever found of any *Schedule*, or *Form* of *Adjournment* Sign'd by the *Archbishop*, is in 1640, when the Convocation at *York* was so dissolv'd. What Occasion'd this singularity, I know not, nor how far it might be owing to the Extraordinary Continuance of that Convocation, after the Dismission of the Parliament. But sure I am, that the Forms of Adjournment, before, and after this, were in the very same Province, us'd to be Pronounc'd only by the *Archbishop*, and Entred in the Books; but not subscrib'd by him: there being, in truth, no more reason for the *Archbishop's* signing the *Schedule*, than the *Act*, of every *Session*. But whatever might be the Occasion of it, 'tis plain, it could not spring from the Reason so often insisted on, (\*) by the *Asserter*; that the *Signing* of Schedules was, in order to the *Transmission* of them; because *This Schedule* was not to be *Transmitted*, but *Read only* in the *Presence* of All the *Clergy*. And therefore, if the *Signing* was, as he says, altogether *Unnecessary* to any *Purposes* in the *Upper House* [p. 38.] we shall be still more at a Loss for a Reason of the Practice, either in this Instance, or in any Other: because it appears pretty clearly, that the Schedules, even when they were Sign'd, were not sent down: Or, had they been sent down, yet the *Attestation*, [and even the *Conveyance*] of them, by a *Sworn Notary*, is at last confess'd † to be a sufficient Evidence of their Authority; without a *Subscription* by the *Archbishop*, or his *Commissary*.

\* There is a mistake in the Expression of P. L. H. which ought thus to be rectify'd.

\* PP. 38.  
45, 55.  
74, 138.

† Ref. p.  
14.

\* p. 48.

Pag. 48. l. 27. "Nor is his Name mention'd in them, but  
 "in a very few Instances.] Besides these Forms *ex Mandato*,  
 or *Decreto Archiepiscopi*, there are some Others, much insisted  
 on by the *Afferter*; which having forgotten to account for  
 in the preceding Papers, I shall here supply that Omission.  
 They are chiefly of Two Sorts; Either Continuations made  
 by the Archbishop with a Liberty reserv'd to himself of  
*shortning* the Time; or such, where the *Upper House Alone*  
 was Continu'd, without any Parallel Adjournment in the  
 Lower. Of the first kind he gives several Instances, \* in  
 which the Adjournments above run, to *such a Day*; or *sooner*,  
*casu quo interim Intimatio in eâ parte facta fuerit* to the Prelates  
 and Clergy. From whence he infers that the *Lower House*  
 being determin'd by these *Conditional Restrictions*, were, conse-  
 quently, *included* in the *Archbishop's Prorogations*. "This he  
 "thinks a Plain and Natural Inference; and desires that  
 "those who think Otherwise, would be pleas'd to tell him,  
 "where the Weakness of it lies. I shall endeavour to do  
 so, by Observing

1. That, *supposing* the Archbishop to have acted *Authorita-*  
*tively* in these Instances, yet would they prove only a *Provi-*  
*sional Power*, reserv'd to him, upon *Extraordinary Emergencies*,  
 for the common Benefit of the Body: but do not shut out  
 either the *Bishops*, or *Clergy's* Right of Concurring in *Ordinary*  
 Adjournments. It might be reasonable that, when the Syn-  
 od was not sitting; and something hapned that requir'd  
 their speedy Consideration, the Archbishop should be allow'd  
 to call 'em together, antecedently to the Time appointed:  
 and yet the Regular Continuations from Session to Session  
 might still be lodg'd in the Synod it self. For an Extraordi-  
 nary Act in an Urgent Case, where the Members concern'd  
 may be suppos'd to be consenting, is no Barr to anordi-  
 nary Power. For which Reason, we find the *Pope*, in the  
 Last *Lateran Council*, sometimes *Deferring* the Time assign'd  
 for the Common *Session* (which is more than *Contracting* it)  
 when some unforeseen Accident made such a Delay Proper,  
 and Necessary, and Justify'd the Exercise of such a Power.  
 And yet nothing can be plainer, than it is from the Acts of  
 that Council, that the Indiction of the several Sessions was  
 made, not by *Papal*, but *Synodical Authority*. Such Occasions  
 (one might argue) *must* be provided for, by lodging a Trust  
 somewhere: and where can it so properly be plac'd as in  
 the Hands of the Chief Member of the Synod? But



2<sup>ly</sup>, It appears not but that what was done in these Instances, was done by *Common Consent*. For we have no Concurrent Lower-House Journals of those Convocations to which they belong; wherein, if Extant, we might possibly find, that the Clergy's Adjournments below, were made with like *Conditions* and *Restrictions*. That this was not a Form of Adjourning, unknown to the Lower House, appears sufficiently from the Entry made in their Book, 19. Dec. 1640; when they are said to have adjourn'd to the 23<sup>d</sup>. of Jan. *sub Protestatione de revocando Actum prædictum, casu quo necesse fuerit interim*. And what they did in this Instance, they might do in all those alledged: and till it can be prov'd that they did not, nothing can be inferr'd from thence to the Prejudice of their Right. For there is no doubt but that the *Whole Synod* may adjourn it self, under what *Limitations* it pleases. The First Act of Continuation he produces from the Synod of 1532, was certainly Synodical; because that Synod was summon'd by a Mandate, which own'd the Clergy's Interest in Adjournments, and requir'd their Proctors to bring up expresse Powers of *consenting* to them; and 'tis not credible that the Clergy, when met, did forbear to exercise a Right, which, before they met, was allow'd, in so Solemn and Authentick a Manner, to belong to 'em. 'Tis to no Purpose to object, that the Extracts say nothing of the *Clergy's Consent*: how should they, when they were taken only from the Upper House Journal? They are as silent, in relation to the *Consent* of the *Bishops* (in every Instance but One) tho' we are sure it interven'd; and represent them as *Peremptory Acts* of the *Archiepiscopal Authority*, which we have this further reason to think, they were not; because

3<sup>ly</sup>. These Meetings by *Intimation* from the Archbishop were never practis'd, but when the Acts of the Preceding Sessions take Expresse Notice of them. Now, had the Archbishop acted in these *Anticipations* by his *Own Authority*, there had been no Occasion for him to give *Warning* of them always, as he doth, the Session before: for he might have call'd the Clergy together when he pleas'd, in the *Intervals* of the several *Sessions*, if He alone had appointed them, and have prevented the Day of their Sitting by the same *Authority* that he *Assign'd* it; which would have been Equal, in this Respect, and upon this Bottom, both *in*, and *out* of Convocation. And yet no One Instance can be given, wherein he ever conven'd the Synod *before* the determin'd Time, unless  
when

when there is a *Reserve* for his doing so, *entred* in the very Records of Convocation; which carries a very strong presumption, that what he did was there in common agreed on; and was not the Act of *Him* alone, but of the *Whole Body*. Why else should these *Entrys* have been made in the *Acts* thus formally and Constantly, but that the Archbishop would have foreclos'd himself from the Exerting of such a Power, if it had not been there *reserv'd*? and how could he have foreclos'd himself, if such a Power had been inherent in his Character, exclusively to the *Consent* of the *Synod*?

It is further urg'd by the *Affterter*, in behalf of the Archbishop's sole Power, that the Adjournments in some Sessions were made only Above, without any Formal Continuation, or even Session of the Clergy below; who yet met, and sat at the time appointed: for which he produces Four Precedents [p. 50.] We will suppose them fairly represented: What follows from thence? That the Adjournments of the Upper House *included* an Adjournment of the *Lower House* also? No such thing! but only, that when the Clergy, knowing no Business would be done, (†) forbore to meet, as an House, according to the Time prefix'd in their last Adjournment, they might however *resume* their Sitting, when they pleas'd; and attend, as an House, at the next *Session of Business*, notwithstanding such *Intermissions*. I see no Inconvenience, in allowing thus much; and need add nothing to what the Author of P. L. H. has said, \* in justification of it. The *Affterter* † rallies him upon that *Nice Disquisition*: However *Nice* it may be, I think it is *Just*, *Apposite*, and *Reasonable*; and plainly shews, that a Breach in the Sessions of an House, is no Legal Barr to their reassembling, as such, at any Other Time, to which they have not expressly adjourn'd. For an *House* subsists by the King's *Writ*, and *Custom*; and not by a Continu'd *Succession* of Adjournments. And if so, their Meeting on a Day, to which the *Bishops* had, and They themselves *had not* adjourn'd, is no proof that the Lower House was actually Continu'd by a Continuation made in

Another. The *Affterter* himself owns as much, \* but he thinks the stress of the point to lye here; That "the Members of the Lower House, tho' no Continuation was made there, did yet think themselves under an *Obligation* to attend at the Time appointed by the Continuation in the Upper; and there *could be no other reason* (he says) for such an *Obligation*, but only their being *included* in it, But this is only one of his *Strong Assertions*, which may be deny'd as strongly

† As none was to be done in all these four Sessions, for reasons already given.

\* p. 20. c. 1, 2.

† p. 52, 53.

\* p. 53, 54.

strongly, and more reasonably : for the *Custom of Convocation*, the *Duty* which the Clergy owe to their *Metropolitan and Bishops*, and the Reason and Nature of the thing it self are sufficient *Tyes*, and *Obligations* upon the Clergy to attend the *Bishops* whenever they *Sit* ; without their being *included* in the *Upper-House* Adjournments. In *Fact* it appears, that they did always attend in the Sessions of Business, and it is not deny'd but that they were *bound* thus to attend ; But from whence this *Obligation sprung* is the Question : And to say, that it *could only* arise from their being *included* in the Continuation of the *Upper-House*, is, to *beg* the Point in dispute, and not to *prove* it.

So much, upon a Supposition, that there was no Formal Continuation below, in all these Instances : which yet is what I can never allow him, for this plain Reason ; Because, in three of them, it is said to the Members of the Lower-House, who appear'd on that day, that the *hujusmodi Convocatio*, that is, the Assembly of that House, *was to be* continu'd, and *was* afterwards actually continu'd, as the Notary affirms. The *Prolocutor* therefore, or his *Deputy*, very probably came, some time within the appointed Hours of Meeting, and Adjourn'd the House ; and thus I understand the Entry of *March. 11. 1586. Sess. 8. Quibus die, Horis, & LOCO*

\* *comparuerunt* [ *Such and such* ] *quibus significatum fuit hujusmodi Convocationem esse continuand. usq; in &c. de mandato Reverendissimi &c. prout revera sic continuata fuit per Mag. Lucam Gilpin. sufficienter & legitime in ea parte deputatum. Unde mox*

\* This Place was manifestly the *Sacellum*, where the Lower

House sat. For the Act of the 7th Session mentions that *Chappel* in the Title of it ; and at the *Close*, the *Prolocutor* adjourns *in hunc Locum*, that is, to the same *Chappel* : where, therefore, they now reassembled. And thus much is implv'd by the word *Comparuerunt*, which can be meant only of an *Appearance* in the *Lower-House* of Convocation-

*supra nominati ex Cætu Inferioris Domus discesserunt.* Gilpin is in other Sessions mention'd as a Member of the Lower-House ; and here therefore he is *substituted* by the *Prolocutor* to *Adjourn* for him. The *Affirter* will needs have him to be the *Archbishop's Commissary* ; \* ( an Officer whom he often Creates, \* P. 52. without a Patent, or any Warrant for so doing ) because it appears, he says, from the Act, that Gilpin *was not that day in the Lower-House* ; His Name being not among those that are said to have been present there. All that follows from hence, is, that he was not yet come, when the Members to whom the *Actuary* spake, appear'd ; but this is very consistent with his coming *afterwards*, and Continuing. And it is highly improbable that a Lower-House Member, without *Dignity*



or *Title*, (for none is mention'd) should be made the Archbishop's Commissary. It was an Honour sometimes paid the Prolocutor, and One or Two of the most Eminent Members, to make them joint Commissioners with the Bishops for adjourning the Upper-house; and the Prolocutor himself hath now and then executed that Commission. But to suppose an Inferiour Clergy-man to be *singly* deputed for that purpose, (which is what the words under His Acceptation imply) is not agreeable either to the Dignity of the Office, or to the Usages of Convocation. So that, in all appearance, *Gilpin* must have been the Prolocutor's, and not the Archbishop's, Deputy. And if so, then is This Entry a Key, to open and interpret the rest, where it is said only that the *Hujusmodi Convocatio was to be*, and *was* continu'd, without expressing the Title of the Continuer.

I am the more confirm'd in this Opinion by observing, from the Lower-House Book of 1640, and from That after the Restoration, that even when nothing was to be done in Convocation (as nothing was done in Hundreds of Instances) yet still an Adjournment was always formally made in the Lower-House, as appears by the Entries. And if ever there were a good reason for omitting these Formalities, it was, when the Convocation had for many Years together been wholly unemploy'd, and met only in order to Adjourn. And yet, even Then, I say, the Lower-House constantly maintain'd its Distinction from the Upper, by Distinct Acts of Adjournment, which in every Session recur. And we cannot believe that a Lower House of great Business, and Figure (such as this of 1586 was) should be more negligent of Forms, and careless of its Rights, than even our Modern and Useless Assemblies.

Nay even in this, † and the succeeding Convocation, we are sure, from the express words of the Acts, that these Formalities were nicely kept up, in most Instances, even when the Lower-House met for no other End, but to assign the Time of their next Meeting. The Asserter is aware of this, and mentions \* Four Sessions of this kind; but adds that "the Lower-House attended, at all these Times, in Expectation of Business, tho' they did none - and for that Reason "sat, and were form'd into an House, and had the Usual Prayers, and a Formal Declaration of the Upper-House Adjournment made to them. But he knows, there are many other Instances, not capable of this Evasion; where the Prolocutor and Lower-House met, knowing, no Business would be done, and that a Commissary only would come to adjourn the Bishops; and therefore never said Prayers, nor sat, and

† A. D.  
1586, &  
1588.

\* p. 52.

were form'd into an *House*, but so long only, as was necessary to adjourn themselves. Thus it was, in the 16th, 17th, 18th, 19th, 20th, and 21th, Sessions. A. D. 1588, when the Business of that Convocation was now at an End, and the Upper-House therefore was perpetually adjourn'd by Commission. The Lower-House met in form, at each of these Sessions, and the *Prolocutor* is particularly mention'd, as being at the Head of them; and without their Praying; or Entering upon any Business, he, as soon as they met, adjourns them. Nay, from some of these Instances it appears, that the Lower Clergy and *Prolocutor*, attending *without* the House, went into it, on purpose to Adjourn. Thus *Sess. 16. 1588. Dominus Prolocutor* and 21 more appear, *ac Eorum plures intrarunt Domum Convocationis una cum Domino Prolocutore, ubi Dominus Prolocutor statim intimavit omnibus presentibus hanc Convocationem esse Continuatam &c.* *Sess. 17. Prolocutor* and 31 more are present, *Quorum nonnulli intrarunt Domum Convocationis una cum Domino Prolocutore; quibus intimavit adstatim Continuationem hujus Convocationis, &c.* And, lest he should take Advantage from the Numbers to say, that they met in Expectation of Business, in two following Sessions [19, 20.] where not above 11 or 12 of the Lower-House came together, yet still the *Prolocutor* formally adjourn'd them. Can any thing be plainer, than it is from all these Instances and Reflections, that the Lower-House, as a *Separate Body*, was us'd always to be dismiss'd by Separate Acts of Adjournment? and was therefore, in all Probability, so dismiss'd by the *Prolocutor*, or his *Substitute*, in those three Disputed Instances, where there is no mention of such a Formal Dismissal? The very Entries of them in the Lower-House Book, under the Name of *Distinct Sessions* is a sufficient Indication of this; for the Session of an House should, One would think, imply at least their Meeting and Parting upon an House-Adjournment.

I find not that the Asserter himself is constant in his Opinion upon this Head: for tho' at One Time \* he produces these Entries, as Proofs that the Lower-House dispers'd, without a particular Continuation, and says expressly, that they \* p. 51. had no *Prolocutor* at the Head of them; yet afterwards †, where he again prints the same Acts, upon another Occasion, I find him allowing, that, in Three of the Four Instances alledg'd, the Intimation was the Act of the *Prolocutor*. His words are, "In these Instances, the *Prolocutor* is said to Intimate the  
"Continuation made by the Archbishop's Commissary; and to intimate in the  
"Lower-House, that the Convocation was continu'd by Order of the  
"Archbishop, &c. p. 62. [that is, of Him, or his Substitute]. So that

it is a *doubtful* point at least, even in this Author's Judgement: for he could not otherwise have been in two contrary minds about it, within the Compass of Ten Pages.

† p. 54.

There are still behind *Two* Other Acts of Continuation alledg'd by him; where "*Awbry*, the Archbishop's Commissary, continues the Convocation, "*in the Presence of the Actuary of the Lower-House*, who formally enters "*them in their Journal*, as the Continuations of that House †. Here again he is inconsistent with himself; for, in the next page, he, with greater exactness, informs us, that, when One of these Continuations was made, the Lower-House-Actuary *was not present*. However, what he says, is true, in all Circumstances, This only excepted; and there was something particular in both these Cases, which might occasion an Omission of the Adjournment below. Upon the 15th of Feb. 1586. the Parliament met, after a long Adjournment; and upon a Message from the Queen, agreed farther to adjourn to Feb. 24th. The Convocation was to meet, upon a like Adjournment, on Feb. 17. But this New Parliamentary Adjournment being known, neither House of Convocation attended; but the Archbishop's Commissary came, and made the usual Concurrent Continuation of the Synod. This Recess of the Clergy was not *Voluntary*, but what they were *oblig'd* to, upon the Foot of the Constitution. The Intervention therefore of their Consent was not held necessary; but both the Upper and Lower-House left the Adjournment, as a Thing in Course, to be declar'd by the Archbishop's Commissary.

Again, *March 24. 1586.* The Convocation was to have been *dissolved* in the morning; in which case it was usual for some of the Lower Clergy to appear before the Bishops, and receive the Queen's Writ of Dissolution. But not attending as an House, it was not necessary the Prolocutor should be at the Head of them. It hapned, either that the Writ could not be got ready, or that the Archbishop could not be present, that Morning: Or perhaps he might desire a Full appearance of the Lower-House, in order to some Synodical Suspensions that day intended. So the Convocation was put off to the Afternoon, and the Clergy, who came in Expectation of being dissolv'd, having no Prolocutor, dispers'd, and reassembled in the Afternoon, without a Formal Adjournment. A Casual and single Instance, owing to such Circumstances as these, is of no Moment in a Dispute about a Regular and Ordinary Right; nor would have deserv'd to be consider'd, on any other account, but because it has been objected. It is so far from being a Proof of the Archbishop's Power to Adjourn the Lower-House, that the same thing was actually practis'd, in the Last Convocation, when the Clergy are known to have thought of nothing less than the Acknowledging such a Power. For when the Convocation met on *June 25* in the morning, to receive the King's Writ of Prorogation, and it was found, upon Opening the Writ, that it ought to have been Executed the day before; an Adjournment was made in the Upper-House to the afternoon, in order to have that Error rectify'd. The Clergy made no Parallel Adjournment below, and yet own'd themselves oblig'd to attend at the Prorogation then made, upon a New Writ, by the Archbishop's Commissary.

And now, I think, I have examin'd every Single Authority, made use of by the Asserter, to countenance his Cause. I have done it more nicely perhaps than was necessary, in order to establish the Right I contend for: but the Reader will be pleas'd to remember, that there are Men in the world, who represent every thing as *unanswerable*, that is not actually, and particularly *answer'd*; and at the same time take what care they can to avoid such a Particular Discussion, by writing *Volumes* on Subjects, which might have been dispatch'd in a Few Pages. I have for once follow'd their Pattern; not because I like it, but because, as they have manag'd the matter, I could not do otherwise.

